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**DOCUMENTS**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF NEW-YORK,**  
**FIFTY-SIXTH SESSION,**  
**1833.**

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**VOLUME I.**  
**FROM No. 1 TO 40 INCLUSIVE.**

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**1833.**



**No. 1.**

# **IN SENATE,**

**January 2, 1833.**

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## **Message from the Governor.**



### **FELLOW-CITIZENS OF THE SENATE AND THE ASSEMBLY:**

In reviewing the condition of the State since the last annual meeting of the Legislature, we have cause to be thankful that all the sources of our prosperity continue undiminished. The labor of our citizens, in every department of industry, has been rewarded with a generous return: our harvests have been abundant, our manufactures flourishing, and our internal commerce growing in activity and extent. It has usually been the grateful duty of my predecessors, in adverting to the occurrences of the preceding year, to acknowledge in their annual messages a large measure of public health, as one of the blessings which the Sovereign Ruler of nations had vouchsafed to the people of this State. But during the past season he has, doubtless for wise purposes, permitted a malignant disease to ravage our principal cities and villages, and to sweep away many thousands of our fellow-citizens. It becomes us as dependent beings, sharing largely in his bounties, to submit with humble resignation to all his afflictive dispensations. Considering the many millions of the human family who in Asia and Europe had fallen victims to this epidemic, its appearance among us was naturally regarded as one of the greatest calamities. But we have reason to rejoice, although our apprehensions of its destructive power were during its prevalence fully realized, that the period of its duration was so brief, and that it has now ceased to exist within this State. Whether it shall return to renew its work of destruction, and clothe our land in mourning, must depend upon the sovereign will of Him who holds in his hands the destinies of mankind. As guardians of the public health, it is your duty to prevent, as far as it can be done by human agency, the re-appearance of this fatal scourge; and, in the event of its return, to mitigate its severity and

circumscribe the sphere of its ravages. The act relative to this subject, passed at the last session of the Legislature, as to some of its important provisions, will expire on the first day of February next. The propriety of continuing those provisions, with such additions and modifications as experience has suggested, is respectfully submitted to your consideration.

Our penitentiary establishments have heretofore received, as they certainly deserved, the peculiar regard of the Legislature. To such institutions philanthropists have long looked for a diminution of human sufferings, moralists for a check to human depravity, and statesmen for a valuable improvement in the affairs of government. The results anticipated from this system, were the almost entire abolition of sanguinary punishments, the reformation of delinquents, the decrease of crimes, and the relief of the public, to a great extent, from the onerous burden of supporting those who, by a violation of the laws, should forfeit the rights and privileges belonging to obedient citizens, and render themselves unworthy as well as unsafe members of society. In some considerable degree these anticipations have been realized. Your benevolent feelings will come in aid of your sense of duty to urge you on, to do whatever yet remains to be done to improve the system, and make it subserve, as far as practicable, the beneficial ends for which it was instituted. The full consideration which this subject received from my immediate predecessor, and the sound views and wise suggestions, not only in relation to the State prisons, but to subordinate establishments, contained in his annual messages, render it, as I conceive, unnecessary for me to enlarge upon these topics. There is also another reason which induces me to abstain from them at this time. At the last session of the Legislature, the House of Assembly appointed a committee to visit the State prisons, to examine the manner in which their accounts are kept and their affairs conducted, and to report the result to the Legislature. This examination has been made; and you may expect, at an early day in the present session, a report which will furnish such information as you may require to guide your legislation on this interesting subject.

In the course of the last summer, the epidemic cholera made its appearance in the prison at Mount-Pleasant, and prevailed there for about forty-five days. The number of cases was three hundred and seventy-six, and the deaths one hundred and three. On re-

ceiving notice of this event, the Executive, with commendable promptness, repaired to the prison, in order that the most efficient assistance should be given to the sick, and the best measures taken to check the ravages of the disease, and abridge the period of its duration.

I am not aware that the prevalence of the epidemic in this institution has indicated the necessity of any further legislation in regard to our penitentiary establishments, except the adoption of a provision excluding, for a proper period, all convicts coming from places where contagious, or epidemic, diseases of a malignant character prevail, and for keeping the persons thus excluded in some healthful situation, until they can be introduced with safety among the other prisoners.

The number of convicts belonging to this prison, including the females confined at Bellevue, is eight hundred and sixty-six. Two hundred and seventy-three have been received into it during the last year. This number is sixty-five less than that of the year preceding. The total number of deaths, including those by the cholera, is one hundred and forty-five. One hundred and sixty-five convicts have been discharged on the expiration of their sentences—sixty were transferred to the prison at Auburn, and thirty-two pardoned. By reason of the prevalence of the cholera, the financial affairs of this prison do not exhibit the favorable result that was anticipated. A full statement in relation not only to this subject, but to the entire operations of this establishment, will be submitted to you in the annual report of the inspectors.

The account from the state prison at Auburn, presents a highly gratifying result. The number of convicts in it at this time, is six-hundred and seventy-nine. One hundred and twenty-seven were received into it, pursuant to the sentence of courts between the first day of January last and the twenty-second day of December following. This is twenty-seven less than the number received there the preceding year. One hundred and fourteen have been discharged by reason of the expiration of the period for which they were sentenced; twenty-seven have been pardoned; twelve have died, and one was released by order of the Supreme Court. The sum charged during the year ending on the thirtieth of September last, for the services of the convicts, to those who employed them, is forty-one thousand five hundred and fifty dollars and

thirty-two cents; and the expenditures for the general support and repairs of the prison, including the expenses of erecting a stone shop, one hundred feet long and forty wide, have amounted to thirty-eight thousand, three hundred and five dollars, and thirty-one cents. The Legislature directed, at its last session, two hundred and twenty additional cells to be built in this prison, and authorised the payment of six thousand dollars from the treasury for this purpose, if it should become necessary, in addition to the unexpended balance in the hands of the agent, accruing from the earnings of the convicts. These cells have been built during the past season, from the avails of the labor of the convicts, without resorting for any aid to this appropriation. These additional cells will enable the agent to assign a separate one to each convict, thereby giving full effect to a valuable improvement in prison discipline.

It is worthy of remark, that there has been no conviction for murder or other capital offence in this State during the past year: and that the whole number of sentences to the state prisons during the same period, has been ninety-two less than those of the preceding year.

I cannot reconcile it to my sense of duty, to pass from this subject, without calling your attention, as my immediate predecessor has repeatedly and earnestly done, to what I am persuaded would be a valuable improvement in our penitentiary system—the erection of a separate prison for female convicts.

I have received from the Mayor of the city of New-York information that the subordinate authorities of a foreign government have sent on board a vessel bound to that place, a number of convicts. As soon as the fact was ascertained, an application was made by him to the General Government for the interposition of its authority to prevent this practice. The answer to this application intimates that the remedy must be applied by the State, or by the municipal authorities of our cities. A regard for the morals of our citizens, as well as the safety of their persons and property, requires, that the introduction of such persons within our borders should be prevented as far as practicable. I therefore respectfully suggest, that you should take this subject into your consideration, and provide a remedy for the evil,

At a late Court of Oyer and Terminer held in the city of New-York, the lotteries were presented as unauthorised by constitutional laws, and a public nuisance. In compliance with the request of the grand jury making the presentment, the court has transmitted it to the Governor, in order to have the subject brought to the attention of the Legislature. At the last session, a resolution was passed by the Assembly, directing the Attorney-General to examine the question, as to the constitutionality of the law authorising the lotteries, and to report thereon to the present Legislature. When his report is received, you will, I trust, take the subject into consideration, and make such disposition of it as shall comport with the public interest and the rights of individuals.

The militia system has an essential connection with the preservation of our liberties. The political sagacity which, in the organization of our government, perceived the importance of laying its foundations in popular principles, saw also the necessity of arraying the whole body of our citizens in support of the public authority, and in defence of our sovereign rights. If the only advantage resulting from the periodical trainings of the militia was to suggest to those of whom it is composed a sense of the solemn responsibility which devolves upon them as a part of the public defence, and the duty of being at all times prepared for the exercise of that exalted function, this alone would be a sufficient reason for upholding the system, even with its present expense and inconvenience. But it is believed that there is no difficulty in removing, consistently with all the ends of its institution, a large portion of the public burden, which in the progress of events has become unnecessary. This object cannot, however, be accomplished by State authority. The Constitution of the United States has given to Congress the power to provide for organizing, arming and disciplining the militia, and the power has been exerted by an act of Congress passed at an early period of the Government. The provisions of this act cannot be suspended or vacated by the laws of the State. They prescribe the extent of the enrolment, and define some of the most important as well as the most onerous duties connected with the instruction and discipline of the militia. The changes which have been wrought in the condition of the people of the United States since this act was passed, require modifications of some of its most essential provisions; and it is due to the people that no burden should be continued, when the exigency which called for it has ceased to exist. The alterations in the established system deemed



most material, are a diminution of the period of enrolment and some provisions by law, which shall convert the expense of arming the militia from an unequal tax upon the person performing the service, into a just and equal tax upon the property of all. The President of the United States has, in his recent message to Congress, called their attention, in general terms, to this important subject, and it is earnestly to be hoped that they will make such amendments to the militia law as shall, without impairing the efficiency of the system, diminish to every practicable extent, the burden of military service. In the mean time, every good citizen will esteem it his duty to uphold by his countenance and support the law as it exists, and to discourage, so far as may be in his power, all attempts to bring into disrepute an institution which, whatever defects it may have, is as vitally connected as any other with the durability of popular governments.

It will appear by the annual returns of the Adjutant-General, that the numerical force of the militia of the State exceeds 188,000 men.

Of all our institutions, there is none that presents such strong claims to the patronage of the government, as our system of common schools; and it is gratifying to know, that these claims have been recognized, and to a very considerable extent satisfied. The wisdom and providence of our legislation appears perhaps nowhere so conspicuously, as in the measures which have been adopted, and the means which have been provided, for the general diffusion of primary education among the children of all classes of our citizens. The communication on this subject, which you will receive from the Superintendent of Common Schools, will exhibit very satisfactory results. Reports have been received by him, from eight hundred and eleven towns and wards, (the whole number in the State,) containing abstracts of returns from eight thousand, nine hundred and forty-one districts, in which there are five hundred and eight thousand, eight hundred and seventy-eight children, between five and sixteen years of age, of whom, four hundred and ninety-four thousand, nine hundred and fifty-nine have been taught in the common schools during the past year. The public money distributed last year to the several districts, amounts to three hundred and five thousand, five hundred and eighty-two dollars, including the annual appropriation of one hundred thousand dollars derived from the common school fund, and the sum of seventeen thousand, one hun-

dred and ninety-eight dollars produced by the local funds belonging to certain towns. Besides these sums of public money, the inhabitants of the districts have paid three hundred and fifty-eight thousand, three hundred and twenty dollars; all these several sums, amounting, in the aggregate, to six hundred and sixty-three thousand, nine hundred and two dollars, have been expended during the last year in payment of the wages of teachers. The Superintendent estimates, from the data furnished by the reports of the last year, that the expenditure under this system has been one million, one hundred and twenty-six thousand dollars, of which the public fund provided by the State, contributed less than an eleventh part. An active and adventurous spirit of improvement, characterises the present age: Its best direction would seem to be, towards multiplying the facilities, and consequently abridging the time and labor, of acquiring knowledge. I indulge the hope that much may yet be done in this respect for primary education. One of the most obvious improvements in relation to common schools, would be a plan for supplying them with competent teachers. Under present circumstances, the remedy to the evils resulting from the employment of persons not properly qualified can only be applied by the trustees and inspectors, and I am not apprised that any further direction for regulating their duties in this respect could be usefully presented to the Legislature.

The two medical institutions established by the authority of the State, and cherished by its patronage, are in a highly flourishing condition. The number of pupils attending the course of lectures at the college in the city of New-York, has for several years past, been annually increasing, and is now one hundred and eighty-eight; the number in the college of Fairfield, is one hundred and ninety.

I commend, also to your care and protection the colleges, and other seminaries of learning in this State. They shed a healthful influence upon our free institutions, and contribute in an efficient manner, and in various ways, to improve our social condition.

Nothing, I am convinced, need be said by me, to turn your favorable regard toward institutions having for their object the dispensation of benefits to those from whom have been withheld some of the best faculties that belong to the common condition of us all. The asylum for the instruction of the deaf and dumb at New-York, is provided with capable teachers, and merits the public confidence, and a continuance of the fostering care and patronage

of the Legislature. There is a diminution in the income provided for the support of this institution to such an amount, that it has become necessary, in order to continue its present usefulness, that aid should be given to it. An application will be made to you for assistance, and will no doubt receive your kind consideration. I regret to learn that the Central Asylum for the deaf and dumb is in a less prosperous condition, and still more deficient in its pecuniary means, than the institution in the city of New-York. It has also claims to your favorable consideration, and to the bounty of the government.

The method of giving relief and support to indigent persons, by the adoption of the county poor-house system, in most of the counties, has essentially improved the condition of this class of persons, and greatly diminished the charge upon the public for their maintenance. In forty-five counties farms have been purchased, and poor-houses erected, at an aggregate expense of two hundred and sixty-eight thousand, eight hundred and fifty dollars; being an average expense to each county of five thousand, nine hundred and seventy-five dollars. In this estimate are not included the almshouse and penitentiary in the city of New-York, which cost five hundred and thirty thousand dollars. The number of persons in the poor-houses on the first of December, one thousand eight hundred and thirty-one, including the city of New-York, was five thousand, five hundred and fifty-four; and the average annual expense of supporting each pauper in these establishments, as ascertained from the reports of the superintendents of the poor, is thirty-three dollars and twenty-eight cents. The abstract of the reports of county superintendents, which the Secretary of State is required to lay before you, will furnish the results of the system for the past year.

The several funds of the State, except that ordinarily resorted to for the means of defraying the expenses of the government, are in a prosperous condition. The income from the Erie and Champlain canals, and the canal fund, during the last year, is about one million, five hundred and ninety-four thousand dollars. The Commissioners of this fund now have under their control, applicable to the payment of the canal debt when it shall become due, or sooner if the stock can be purchased on favorable terms, about three millions and fifty-five thousand dollars. If no important changes take place, in the business upon these canals, and none of the revenues

are diverted from the fund, it is reasonable to anticipate that before the first of January, one thousand eight hundred and thirty-eight, means will have been realized for the entire extinguishment of the whole of this canal debt; but should the change now contemplated, as to two important items of this revenue, be effected, the period at which the Commissioners will be in possession of the means to discharge the whole debt, will be proportionably deferred. The views of the Commissioners of the Canal Fund, as presented in their last annual report, have been substantially realized, in relation to the Oswego canal fund, and the Cayuga and Seneca canal. The revenues have been less than the estimates, and the deficiencies to be drawn from the treasury have a little exceeded them. The estimated deficiency for the current year in the revenues of the Oswego canal fund, is nineteen thousand, three hundred and sixty-seven dollars, and thirty-six cents; and that of the Cayuga and Seneca canal, four thousand, three hundred and fifty dollars: making together a total of twenty-three thousand, seven hundred and seventeen dollars, and thirty-six cents.

The expenditures upon the Chemung canal, during the last fiscal year, were eighty-nine thousand, nine hundred and thirty-nine dollars, and sixty-eight cents; and the balance of moneys in the hands of the Commissioners, on the thirtieth of September last, appropriated to the construction of this canal, was thirteen thousand and eighty-six dollars, and thirty-nine cents. I learn, however, that the Commissioners are authorized, by existing laws, to make further loans for this object, to the amount of twenty-five thousand, seven hundred and thirty-seven dollars, and that this sum was supposed to be sufficient for the completion of the work. Not having received from the Canal Commissioners any intimation that further means will be required, or that any further legislation is called for in reference to this canal, I am not aware that the subject will claim your particular attention.

The Crooked lake canal is also in progress, and the expenditures upon it, between the twelfth of October, one thousand eight hundred and thirty-one, and the thirtieth of September of the following year, amounted to sixty-seven thousand, nine hundred and six dollars, and forty-six cents. The unexpended balance, on the latter day, of moneys applicable to this canal, was nineteen thousand, two hundred and five dollars, and eighty-seven cents; and twenty thousand dollars of the appropriation had not then been borrowed.

I am not advised that the work will require additional appropriation. The Canal Commissioners will communicate to you the present condition of the two last named canals, and their opinion as to the period when they will probably become navigable.

The fund set apart for the encouragement and support of common schools, is safely vested, and in a highly prosperous condition. The constitution declares that this fund "shall be and remain a perpetual fund, the interest of which shall be inviolably appropriated, and applied to the support of common schools throughout this State." This injunction has been faithfully observed. Since the adoption of the constitution, the nett increase of this fund has been five hundred and seventy-nine thousand, three hundred and forty-seven dollars; and the whole of it now amounts to one million, seven hundred and thirty-five thousand, one hundred and seventy-five dollars. The capital is now sufficiently productive to yield the one hundred thousand dollars required by law to be annually distributed for common school instruction.

The Regents of the University are enabled to apportion annually to the academies ten thousand dollars, from the revenues of the literature fund.

The general fund is almost exhausted, by the liberal contributions it has yielded to all the other funds, by the payment of the State debts, and by furnishing, unaided for the last five years, all the means for the ordinary and extraordinary expenses of the government. The revenue from this fund has at no time been sufficient, without the avails of a general tax, to satisfy the demands upon the treasury. In order to meet these demands, and to relieve our fiscal affairs from embarrassments, it became necessary, in eighteen hundred and fourteen, to impose a tax of two mills on each dollar of the valuation of real and personal property in the State. This tax was continued until eighteen hundred and eighteen; then it was reduced to one mill; in eighteen hundred and twenty-four, to half a mill, and in eighteen hundred and twenty-seven it was wholly discontinued. When the Legislature refused to continue the tax it was well understood that the general fund could not long sustain the burden cast upon it; that its capital would be rapidly reduced, and soon exhausted. Though this event has not approached so rapidly as was anticipated, it is now at hand, and this session should not, in my judgment, be permitted to pass away without providing

the means, by the adoption of some settled plan, to satisfy the demands that must inevitably be made upon the treasury. The annual expenses of the government, in future years, will not fall far below three hundred thousand dollars, and all the available means for the current year, other than a resort to the remaining capital of the general fund, will be less than one hundred thousand dollars.

According to the statement of the Comptroller, the capital of this fund is now only five hundred and seventy-eight thousand, three hundred and ten dollars; and if from this amount, be deducted the debt due for the stock issued to John Jacob Astor, now payable at the pleasure of the State, this capital may be regarded as almost entirely expended. At the period when the State tax was discontinued, I had the charge of the financial department of the government. Disapproving of the policy of impairing the general fund, I recommended the continuance of the tax; and in subsequent years I deemed it my duty to urge a return to it. It would be useless to attempt now to determine whether the policy thus recommended, and I believe every year since, urged upon the Legislature by the head of that department, and for the three last years by the Executive, was preferable to the course which has been pursued. We are now brought to a condition in which the expedient heretofore used for meeting the demands on the treasury, can be no longer resorted to, and a new system of revenue must be devised.

A movement has been made for the purpose of releasing the auction and salt duties, from the constitutional pledge, by which they are secured to the canal fund. If this measure should be consummated, and the avails of these duties restored to the general fund, and the amount of the income from these sources should not be materially affected, by the anticipated change in the salt duty, or the possible legislation of Congress, in relation to auction sales,—the revenue would in this manner, receive an augmentation which will render it nearly, or quite, equal to the demands upon it. But it will be perceived, that this proposed measure is beset with contingencies which cannot be effectually controlled by your legislation. The people may not approve of the proposition to release the pledge; and if they should, it may not be deemed wise to draw, after the canal debt is paid, a large revenue from these sources, or to devote what may be thence drawn, to the support of the government.

The canals are rapidly accumulating the means for the extinguishment of the debt for which their income is hypothecated. When this object is accomplished, the tolls may, with fair claims of justice, be resorted to, for the means of replenishing the treasury, to an amount, at least, equal to the sum abstracted, for the benefit of the canals, from the general fund. On whatever principle this account shall be stated, the sum that will be found due, will probably be sufficient, not only to reimburse any loans which may be made for defraying the expenses of the government, but to afford a temporary aid to such works of internal improvement as the State may think it wise and prudent to undertake.

The money diverted from the general fund to the use of the canals, belonged equally to the citizens in all parts of the State; but the object to which it was appropriated, though eminently beneficial to all, was not so to all, in an equal degree. The inhabitants, in districts of the State remote from the canals, do not derive as much advantage from them, as those in their immediate vicinity; they will therefore naturally prefer to have the treasury replenished by a repayment of the contributions made to the canals, rather than by resorting to a general tax. The justice of a claim upon the revenue of the canals to some extent, in favor of the general fund, will probably not be denied; but the amount which shall be repaid, and the objects to which it shall be appropriated, will doubtless give rise to much diversity of opinion. If we were prepared to settle these questions, we have not the power to do so; they must be left for our successors. Shall we then anticipate their decision, and accumulate a debt for the ordinary expenses of the government, trusting to the future appropriations of the income of the canals, for its repayment? Without a confident reliance on this, or some other certain and specific resource for its redemption, there are, in my mind, strong objections to the creation of such a debt. A national debt has been regarded by the true friends of a republican government as a national evil. When the public funds are not drawn immediately from the people, a proper sense of dependance on the part of those who have the appropriation of them is lost; and a salutary check to improvident and profuse expenditure is removed. When the motive for the constituent to scrutinize the conduct of the representative is enfeebled, the latter ceases to feel and act under the consciousness of a due accountability. If the force of this relationship in a

government like ours be weakened, the action of the whole political system is deranged: economy is no longer regarded as a political virtue; public spirit loses its true aim, and its energies are directed to personal and ignoble ends. A large funded debt has a tendency to create artificial distinctions among the people—to divide society, into the rich and the poor, and to bring about a state of things, in which labor is made tributary to wealth, and power purchased by influence. At this time, when the General Government is presenting for the admiration of the world, the unprecedented fact, of the total extinguishment of a large national debt, it would ill become this State, eminently distinguished for her wealth, her resources, and the enterprising spirit of her citizens, to counteract in any degree, this impressive political lesson, by the commencement of a debt for the purpose of defraying the expenses of her government.

A national debt may be the result of inevitable necessity.—The efforts which nations are sometimes required to make, to recover their civil liberty, or to defend their rights, may involve an expenditure beyond their present ability to pay. A debt thus contracted, confers no reproach, and its payment may be deferred until the people that incurred it, have replenished their resources, and become able to sustain the burden of discharging it, without withering their prosperity. Such was the origin of our national debt, and such has been our course in regard to its payment. The debt contracted by this State on account of the canals, is justified on a different principle. The object for which it was incurred, was specific, and ample means for its speedy redemption were provided in the very act which authorised it. It could in no event have been forwarded on to a future age, as an incumbrance upon it, to be paid by a general tax, without a violation of the most solemn pledges.

Whether a resort to a general tax, moderate in amount, in order to provide the means to meet the exigencies of the government, shall be foreborne, and a reliance be placed on the chance of deriving sufficient aid for that purpose from the duties on salt, and auction sales; or a debt shall be contracted, with a view to its redemption from the canal revenue, after it is relieved from its present hypothecation, are questions which may with propriety be left to the immediate representatives of the people. If upon due deliberation, you should determine to levy a tax, and leave the other reve-



nues unanticipated and unimpaired, to be managed and disposed of by your successors, as the best interests of the State shall indicate, when the existing incumbrance is removed, I feel the fullest confidence that the people will cheerfully acquiesce in the decision.

There is no subject connected with our local affairs that we can contemplate with so much satisfaction as our works of internal improvement. The advantages resulting from them are felt in all parts of the State, and in the diversified occupations of our citizens. Every where their beneficial effects are visible, bearing testimony to the wisdom which conceived the system and to the enterprise which put it into practical operation. The peculiar formation of our State, indicated at an early period to some of our enlightened and sagacious citizens, the practicability, as well as the usefulness, of connecting the great northern and western lakes with the Atlantic ocean by means of artificial water communications. The enterprise of the present age has most successfully carried into effect the grand conceptions of the past. The spirit which prompted us to enter upon this system was not, however, wild and reckless: while it anxiously sought the end, it carefully estimated and wisely provided the means for its attainment. Though much has been done to improve the condition of our State, much yet remains to be done. While we allow the success which has attended our efforts at home, to impel us forward in the career of improvement, we should not be regardless of the less fortunate effects which have resulted from similar enterprises abroad. On the one hand, it would be unworthy of the character of the State to pause in this career: On the other, it would be more unwise to rush forward in it, accumulating burdens upon the people without securing proportionate advantages.

From all internal improvements, there necessarily result local benefits, and it is natural that those parts of the State which have not participated in them should indulge an impatient desire to do so. Wise legislation should endeavor to gratify this desire as far as practicable, when it can be done with due regard to the public interest. Local interests concurring with, or pretending to, the general good, will devise and press upon your consideration particular plans for improvement, both by canals and roads, and if you should determine that it was expedient to do more at present than to complete those already begun, the difficult and

responsible duty of selection will devolve on you. Though revenue is not the sole consideration that should influence your decision, it ought to have great weight with you, for it will be a test of the public usefulness of the work. In my judgment, the first object of inquiry should be, to ascertain, as accurately as possible, the amount of expenditure a proposed work will involve; and the next, the amount of revenue that may be derived from it. If the revenue promises to be sufficient to keep it in repair when finished, to defray the expenses of superintendence and the collection of tolls, and to meet the claims for interest on the capital expended, sound policy requires that it should be constructed. Even if a less favorable result should be anticipated for a few years, the question of authorising the construction of a public work may yet be very properly entertained. An improvement, opening an easy and cheap communication into the interior of any part of the State, would soon develop new resources in that section, increase the quantity of its productions, and expand its trade. If it should require the lapse of a few years to produce these effects, and to increase the revenue to an amount sufficient for the purposes before specified, this would constitute no conclusive objection to the undertaking. Should the proposed work be connected with those now in operation, the effect it might have on the productiveness of them, should also be regarded, and to a reasonable extent, influence your decision. Improvements that will ensure these results at the time of their completion, or shortly thereafter, should inspire no dread that a general burden will be cast upon the State, to discharge the debt created for their construction; because the gradual growth of the adjacent country, and consequently the extension of trade, will increase the revenue, until there will ultimately be a surplus to be applied in redemption of the debt contracted on their account.

I am not possessed of any particular information in regard to most of the applications for internal improvement, which may be brought before you at the present session; it would therefore be useless for me to go into any enumeration of them, for the purpose of submitting to you general remarks, which are probably alike obvious to you all.

An application for a public work, to connect the waters of the Susquehannah with the Erie canal, by a communication through the valley of the Chenango, has for several successive

years been made to the Legislature, and will doubtless be again renewed at this session. The proposed canal extends about ninety-five miles through an interesting section of the State, and will afford additional facilities to a market, for the products of a considerable portion of our citizens. Repeated examinations of the route have been made by skilful and experienced engineers, and the practicability of the work well ascertained. The expense has been uniformly estimated by the engineers, at less than one million of dollars; but the Canal Commissioners are of the opinion, that it will involve an expenditure beyond that sum. The amount of revenue it will yield has been variously stated: some think it will not be sufficient to keep the canal in repair, and pay the expense of collection; while others who have given the subject an equally careful consideration, entertain a confident belief that it will be abundantly sufficient to bring the application within the rule I have laid down as justifying, in my judgment, the construction of any public work falling within it. It remains for you to decide upon these conflicting opinions. I commend this proposed work to your favorable notice, with the expression of a strong desire that its merits may be found such as to induce you to authorize its construction.

Agriculture, manufactures and commerce are the three great departments of human industry. They furnish to all the means of subsistence, and the comforts of life, and constitute the only true sources of national wealth and prosperity. Legislators can never withhold from them a fostering care, without disregarding one of the most important and solemn duties which they owe to their constituents.

The power to regulate commerce is delegated to the General Government, and consequently the sphere of State legislation with regard to this subject, is very much circumscribed; it scarcely extends beyond the enactment of laws for the inspection of some of our principal domestic products, and the multiplication of facilities for the exchange and transportation of articles of commerce.

Manufactures are a branch of industry eminently connected with our prosperity, and at this time an object of peculiar solicitude to a large portion of our constituents. The principle of giving encouragement and protection to them, was recognized in one of the

first acts of Congress passed after the adoption of the Constitution of the United States. The representatives of all the states in the councils of the nation, have at one period or another, given their sanction to this principle; and down to the present period, it has entered into and influenced, the policy of the Federal Government. The extent to which it should be carried, has often been in dispute; but the rightful authority to encourage and protect manufactures, either directly or incidentally, has not, until within a recent period, been seriously questioned by any considerable portion of the people of the United States. I am persuaded there is nothing in the operation of this principle, in a course of wise and prudent legislation, that conflicts with the objects for which our federal compact was formed, or that imposes unequal and oppressive burdens on the people of one section of the country, as the necessary consequence of the benefits it confers upon others. If this principle has been misapplied, and injurious effects have thereby resulted, the proper remedy for them does not require an abandonment of it.

From the consideration of these important subjects, I pass to one of greater and more general interest, lying more directly within the range of our legislative action, and demanding from us a particular attention. Agriculture was undoubtedly the primitive pursuit of men in a civilized state of society, and seems to be indicated to them by heaven as their best employment. Vigor of body and purity of mind, are eminently enjoyed by the husbandman. Without meaning to disparage any class of men, or to deny a due measure of public virtue and usefulness to all, history and experience warrant the assertion, that the cultivators of the soil have ever been among the first to cherish, and the last to abandon, free institutions. It is not however for this reason, that agriculture presents peculiar claims for your guardianship. It not only furnishes occupation to a much greater portion of our citizens than any other department of labor, but it supplies the materials for all others. It must be regarded as a matter of some surprize, that an employment in which so great a number of the human family are directly engaged, to which all look for their daily bread, and upon which commerce, manufactures and the mechanic arts—indeed all the various pursuits of mankind—so necessarily depend, should not have risen to a still higher consideration than it has yet attained, and received from those entrusted with the power of legislation more liberal aids.

The numerous agricultural societies organized in the several counties of this State in consequence of our legislation, flourished for a season, then languished, and are now generally dissolved. The interest of agriculture was, to a considerable extent, promoted by these societies. The contributions from the public treasury, distributed principally in premiums, gave a sudden impulse to agricultural industry, and induced many laudable efforts among farmers, not only to excel in their productions, but to introduce valuable improvements in husbandry; yet it has been questioned whether the benefits thus obtained were of such an extensive and abiding character, as might have been realized by a different application of the funds derived from the government. Agriculture is a science, as well as an art; and both must be systematically cultivated, and widely disseminated, before it will attain a high degree of improvement. The general intelligence and individual enterprise of those devoted to this pursuit have carried the art as far, perhaps, as could be reasonably expected without a better knowledge of the sciences connected with it. With a salubrious climate and fertile soil; with extensive regions but partially brought under the power of cultivation; with rising manufactures and a flourishing commerce, demanding the surplus products of husbandry; with a population full of enterprise, and distinguished for native skill and practical talent, we may reasonably expect great advantages from the cultivation and diffusion of the sciences connected with this art. This subject appears to me to be in every respect worthy of your attention and to merit your liberal encouragement.

The Legislature has from time to time been informed by my predecessor, of the proceedings in the suit now pending in the Supreme Court of the United States, between this State and New-Jersey, in relation to a disputed boundary. To the bill filed by New-Jersey, a demurrer was interposed, on the ground that the Court could not exercise jurisdiction in such a case.

The counsel of this State appeared in court in March last, and commenced the argument of this demurrer; but before it was concluded, the Court found it necessary to suspend the discussion, and assigned the first Monday of February next for resuming it. Although our counsel entertain very decided opinions against the jurisdiction of the Court, yet it is extremely desirable that the whole controversy should be definitively settled by an amicable arrange-

ment. A decision of the issue formed by the demurrer in favor of New-York, would not necessarily put an end to the controversy out of which the suit has arisen; on the contrary, it is possible such a result might serve to increase the embarrassments which have been already produced by the conflicting claims. But without reference to the possible issue of the proceedings now pending in court, the interests of both States, and many other important considerations, concur at this time in recommending an adjustment of this question upon terms of honorable compromise. Although two unsuccessful attempts have heretofore been made to accomplish this object, yet on reviewing the proceedings, I do not perceive any difficulty that may not be removed by new efforts to bring about a proper accommodation. Viewing the subject in this light, I feel that I shall not be considered as wanting in a just regard to the rights or the honor of our State, when I submit to you the propriety of making provision by law for appointing commissioners with full powers, to meet those of New-Jersey, in case her Legislature should appoint them, with a view to such an adjustment of this question, as shall comport with the real interests, and define the future rights of both States. Such a measure on our part, even if it should not be met by a corresponding one on the part of New-Jersey, could not in the slightest degree compromit our rights; but I have reason to believe that it would be received with a liberal and conciliatory spirit, and might in all probability ultimately lead to an adjustment beneficial to both States. Such an amicable termination of the controversy could not be otherwise than gratifying to the feelings of their respective citizens, who entertain congenial sentiments, and are united by the ties of kindred interests, and, to a great extent, of a common origin.

It is but a few weeks since the last surviving signer of the Declaration of Independence was gathered to his compatriots. Such an event is well calculated to excite feelings and reflections difficult to be suppressed, and not improper, perhaps, to be indulged, even on an occasion like this. The men who proclaimed our independence as a nation, were the most distinguished assemblage of sages and patriots that ever appeared in any country. The favor for which we should be most grateful, next to that of having such men for our forefathers, is the long life which it pleased a kind Providence to bestow on most of them. Some were permitted for nearly half a century after they had laid the foundations of our free government, to continue their invaluable labors in rearing thereon

a structure of human liberty which stands without a rival, challenging the admiration of the world.

That we might not lose too much at once—that we might be gradually prepared to pursue, without the strong light of their example, the career which they had opened, they were, one by one, withdrawn from us. The last is now gone; and on us is devolved the high responsibility of preserving unimpaired the most valuable inheritance that one generation ever transmitted to another.

In performing this most difficult duty, which we owe alike to those whom we have succeeded, to our own age, and to posterity, we are happily not without a guide. The history of their lives, and their recorded precepts are full of instruction, in regard not only to the great principles which lie at the foundation of our government, but to the practical rules concerning the administration of its affairs. While we enjoy the civil and political rights inherited from them, let us emulate their devoted patriotism; let us cultivate a spirit of forbearance and conciliation amid the conflicts which, as human nature is constituted, will inevitably arise from the discordant views of men with regard to the various interests of a great people; and let us continue our efforts, to the extent of our abilities, to carry forward our country in the direction indicated by them, to a degree of prosperity and renown which shall equal their fondest anticipations.

Undervaluing the virtue and intelligence of the people, the enemies of our free government have constantly predicted, and some of its true friends have feared, that it would ere long be impaired, perhaps overthrown, by popular convulsions. Experience has thus far disappointed the hopes of the one, and greatly allayed the apprehensions of the other. As a nation, we have already encountered the severest trials, and our free institutions remain unimpaired. Some, entertaining a disparaging opinion of the virtue of the people, have deemed it necessary that those who are intrusted with public affairs, should be as far removed as possible from the influence of fluctuations in the popular will: and as their theory of administering the government required large powers, they have not hesitated to derive them from a latitudinarian construction of the constitution. Others have placed a confident reliance on the judgment of the people, regarding them as possessed not only of the sovereign power, but of a perfect right to have

their wishes respected by their public servants, and the authority conferred on them confined within the limits fixed in the instrument, by which that authority is delegated. The difference in these views has been, in my opinion, the principal cause of our party divisions. Those who entertained the views last described considered the elevation of our present patriotic chief magistrate of the United States, as a measure necessary to bring back the administration of our government to its true constitutional principles. Nearly every beneficial result anticipated in that event has been realized. Our foreign relations, involved as they were in the most serious embarrassments, have been placed in the best possible condition; our negotiations in almost every case brought, by persevering efforts and consummate ability, to a successful termination, and our country exalted to a higher consideration with foreign powers, than it has enjoyed at any former period.

The management of its internal affairs, not less difficult than that of its foreign relations, has called forth an equal display of wisdom and talent, and has been conducted with equal success. Abuses in the subordinate departments of the government have been corrected: its fiscal resources have been husbanded, and the public debt nearly extinguished; legislation, of doubtful authority and of equally doubtful utility, has been arrested by the salutary exercise of a high constitutional prerogative. So far as depended on the executive department, all that prudence required or wisdom could suggest has been done, to remove the causes of local excitement and to inspire general content; and a system of measures suited to our social condition, and congenial to the principles of our political institutions, has been fearlessly recommended to Congress for their adoption. If such an administration had not secured to itself the continuance of the public confidence, fears might well have been entertained for the stability of republican governments. Sustained as it has been against a combination of interests, the coalition of hostile parties, the use of extraordinary means, and the exertion of violent efforts, the auspicious result of the late contest may justly be regarded as a triumphant refutation of the fallacy, that the people are unworthy of being trusted with the unlimited control of their political affairs, and an unanswerable argument in favor of the durability of a free government, confided to the guardianship of intelligent and virtuous citizens.



I perform an unpleasant duty in laying before you, at the request of the Governor of South-Carolina, the proceedings of a recent convention of the people of that State. In expressing my unequivocal disapprobation of those proceedings, and my deep regret that a State which, in all past time, has so nobly performed her duty to the confederacy of which she is a member, should thus attempt to exonerate her citizens from the operation of the laws of the United States, I am persuaded I do but speak the universal sentiment of the people of this State. For the first time in the history of this republic, a claim has been set up, on the justly cherished ground of State rights, which, if well founded, belongs equally to all the members of the Union, but which is repudiated by all, and by none more earnestly than by those members who, in respect to the evils complained of, and for the redress of which the claim in question has been asserted, stand in precisely the same situation with the State of South-Carolina. Whatever, therefore, may be the nature and extent of the alleged grievances, I do not go too far, I trust, in assuming that the remedy to which our fellow-citizens of South-Carolina have resorted, and on the strength of which they are apparently preparing for themselves the most fearful of all responsibilities, is not merely unauthorised by the Constitution of the United States, but fatally repugnant to all the objects for which it was framed. Let their doctrine be once established, and the union of these States is destroyed forever.

From a state of things so novel in its character, and so ruinous in its tendencies, duties of the highest importance, increasing in interest and delicacy, according to the course of events, may devolve on us as one of the members of the sacred union of these States. Whatever embarrassments may arise, I feel confident that the people and government of this State will support the Executive of the United States in all measures which are proper, and may be necessary for the preservation of the Union, and for the due execution of the laws, and will faithfully perform all their duties resulting from our national compact.

But I should be unmindful of the just and generous character of our constituents, if in expressing what I believe to be their sentiments, I did not at the same time disclaim for New-York all desire to aggrandize herself at the expense of her sister states, or to pervert to local purposes a system of government intended for the common benefit of all. She cherishes the union of these States.

She knows what it cost. She estimates, as highly as any other member, its value, both on account of the benefits it confers and the evils it averts; and it is not to be doubted, that she would make any sacrifice which would be considered reasonable to preserve it. Though its destruction would not certainly be more calamitous to her than to others, yet none will adhere to it longer or exceed her in great and generous efforts to sustain it. Without it, she might be prosperous; but her highest prosperity would be embittered by regrets on account of the blessings lost to herself, her associates, and the world: With it, there is no policy that would be long pursued by a people so virtuous and enlightened as those of the United States, under which she could fail to be an important and flourishing commonwealth. If, therefore, the operation of existing laws be adverse to these views, I am persuaded New-York will consent to such a modification of them as will remove all just ground of complaint, and afford substantial relief to every real grievance.

The duty of deciding upon these points is committed, so far as our State has a voice in the discussion, to those who represent us in the Congress of the United States. To the wisdom and patriotism of that body, to the firmness and well-tryed virtue of the President, and to the gracious care of a beneficent Providence, we may confidently commit the issue of the deeply interesting questions presented by the unprecedented state of the country.

One of the duties which will require your earliest action, is the selection of a citizen to fill the vacancy in the Senate of the United States, created by my resignation of the office of senator, which I hereby present to you. In the portents of the times you will find additional motives for exercising much care and consideration, in making this selection. Not only the general policy, but many of the particular measures of the national government exert an important influence upon the diversified pursuits of our constituents. How far this influence shall be beneficial, may depend in no inconsiderable degree, upon the character and capacity of those who represent us in the Senate of the United States.

On passing from one station to the responsible duties of another, I trust I may so far indulge in the expression of my feelings as to say, that while I have been very sensible of the favor, received in repeated instances from the Legislature, and recently from the people of this State, I have been at the same time equally diffident

of my ability to discharge the trusts so liberally confided to me, in a manner corresponding to my own wishes, or the expectations of my fellow citizens. A lively sense of gratitude will not, I venture to assert, be the least efficient motive in disposing me to devote myself to the welfare of the State.

My earnest endeavor shall be, to do every thing falling within the sphere of the executive powers, that my humble abilities will enable me to do, to preserve the sovereign rights of the State, to secure the due execution of the laws, to sustain our invaluable institutions, to develop the vast and exhaustless resources, with which we are liberally supplied by nature, and to carry us on in the progress of moral, intellectual and physical improvement, wisely begun and so prosperously continued that we have already become, under the operation of the free principles of our government, and with the favorable regard of Him who controls the destiny of nations, a great, a happy, and a powerful commonwealth.

W. L. MARCY.

*Albany, January 1st, 1833.*

No. 2.

**IN SENATE,**

**January 2, 1833.**

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**DOCUMENTS**

**Accompanying the Governor's  
Message.**

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**Letter from His Excellency the Governor of the  
State of South-Carolina, to His Excellency the  
Governor of the State of New-York.**

**EXECUTIVE DEPARTMENT, }**  
*Columbia, (S. C.) Dec. 1, 1832. }*

**SIR,**

In compliance with a Resolution adopted in Convention by the People of South-Carolina in Convention assembled, I do myself the honor of transmitting you a copy of the Proceedings of that Body, with a request that you lay them before both branches of the Legislature of your State.

I have the honor to remain,

Very respectfully, your obedient Servant;

**J. HAMILTON, JUN.**

*To His Excellency the Governor  
of the State of New-York.*



## DOCUMENTS,

*Ordered by the Convention of the People of South-Carolina, to be transmitted to the President of the United States, and to the Governor of each State.*

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## REPORT

**Of the Committee of Twenty-one, to the Convention of the People of South-Carolina, on the subject of the several Acts of Congress, imposing duties for the protection of domestic manufactures, with the Ordinance to nullify the same.**

IN CONVENTION, COLUMBIA, S. C. }  
November 24, 1832. }

*Resolved*, That copies of the Ordinance just adopted by this Convention, with the Report thereon, and the Addresses to the People of the several States, and of this State, be transmitted by the Governor to the President of the United States, to be by him submitted to Congress, and also to the Governors of the several States, for the information of their respective Legislatures.

ATTEST,

J. W. HAYNE, *Clerk*  
of the Convention.

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## REPORT OF THE CONVENTION.

The Committee to whom was referred the "Act to provide for the calling of a Convention of the People of this State," with instructions "to consider and report thereon, and especially as to the measures proper to be adopted by the Convention in reference to the violations of the Constitution of the United States, in the enactments by Congress on divers occasions of laws laying duties and imposts, for the purpose of encouraging and protecting domestic manufactures, and for other unwarrantable purposes," beg leave respectfully to submit the following

## REPORT.

The committee, deeply impressed with the importance of the questions submitted to them, and the weight of responsibility involved in their decision, have given to the subject their most deliberate and anxious consideration. In stating the conclusions to which they have arrived, they feel that it is due to themselves, to this Convention, and to the Public at large, briefly to review the history of the Protecting System in this country, to show its origin, to trace its progress, to examine its character, point out its evils, and suggest the appropriate remedy. They propose to execute this task with all possible brevity and simplicity, sensible that the subject is too well understood in all its bearings to require at this time a very elaborate investigation.

In the natural course of human affairs, the period would have been very remote when the people of the United States would have engaged in manufactures, but for the restrictions upon our commerce which grew out of the war between Great Britain and France, and which led to the non-intercourse act, the embargo, and finally our own war of 1812. Cut off by these events from a free commercial intercourse with the rest of the world, the people of the United States turned their attention to manufactures; and on the restoration of peace in 1815, an amount of capital had been already invested in these establishments, which made a strong appeal to the liberality—we might almost say to the justice of the country for protection, at least against that *sudden influx* of foreign goods which it was feared would entirely overwhelm these domestic establishments. When, therefore, in 1816, it became necessary that the Revenue should be brought down to the peace establishment, by a reduction of the duties upon imports, it was almost by common consent conceded to the claims of the manufacturers, that this reduction should be *gradual*; and three years were accordingly allowed for bringing down the duties to the permanent revenue standard, which, embracing all the ordinary expenses of the government, with liberal appropriations for the navy and the army, an extensive system of fortifications, and the gradual extinction of the public debt, (then amounting to \$130,000,000,) was fixed at 20 per cent. If the manufacturers had at that time even hinted that permanent protection was deemed indispensable to their success; if the slightest suspicion had been entertained, that instead of the gradual reduction expressly provided for by the act of 1816, there would be claimed a *gradual increase* of the protecting duties; and that instead of being brought down in three years to 20 per cent, the duties were to be carried up to 50 or 100 per cent, and in many cases to prohibition, the painful contest in which the country has been engaged for the last ten years on this subject, would have commenced immediately; and it is confidently believed, that in the temper of the public mind at that time, ample security would have been found against the introduction of such a system. But in de-

fiance of the clear understanding of the whole country, and in violation of the principles of justice and of good faith, that part of the act above mentioned which required that the duties should be reduced in three years to 20 per cent, was repealed, and a broad foundation thus laid for the permanent establishment of the protecting system. This system has been still further extended and fortified by the several successive acts of 1820, 1824 and 1828, until, by the passing of the act of 1832, (to take effect after the discharge of the public debt,) it has become incorporated into our political system, as the "SETTLED POLICY OF THE COUNTRY." We have not deemed it necessary, in tracing the origin and progress of this system, to go further back than the commercial restrictions which preceded the late war; for whatever theoretical opinions may have been expressed by Alexander Hamilton and others in relation to it at an earlier period, it cannot be denied that no duties were actually imposed beyond those deemed indispensable for the public exigencies; and that prior to the year 1816, no protection whatever was actually extended to manufactures, beyond what was strictly incidental to a system for revenue. The *discrimination* between the *protected* and *unprotected* articles, now contended for as the very corner stone of the protecting system, was so far from being established by that act, that the highest duties were actually imposed on the very articles now admitted duty free, while the foreign manufactures which came into competition with our domestic fabrics were subjected to a lower rate of duty. The truth then unquestionably is, that the protecting policy, according to the principles now contended for, was never introduced into this country until the period we have mentioned, when it crept insidiously into the legislation of Congress in the manner above described. This will be made abundantly manifest to every one who will take the pains to trace the progress of the duties from 7½ per cent in 1790, up to 25 per cent in 1816, 40 per cent in 1824, and 50, 60, and even 100 per cent in 1828 and 1832, and who will merely examine the manner in which these duties were adjusted in the various acts here referred to. As early as 1820—so soon indeed as the capitalists who had relied upon the powers of the Federal Government to enhance the profits of their investments by legislation, began to look forward to its eventual establishment as the settled policy of the country—they clearly perceived that an extension of the appropriations to objects not embraced in the specific grants of the Federal Constitution, was the necessary appendage of their system. They well knew that the people would not long submit to the levying of a large surplus revenue merely for the protection of manufactures, carried on almost exclusively in one quarter of the Union; and they therefore sought, in the extension of the appropriations to new objects, for a plausible and popular excuse for the continuance of a system of high duties. With that instinctive sagacity which belongs to men who convert the legislature of a country into an instrument for the promotion of their own private ends, they clearly saw that the distribution of an enormous surplus treasure would afford the surest means of bringing over the enemies of the American System to its



support, and of enlisting in their cause not only large masses of the people, but entire States who had no direct interest in maintaining the protecting system, or who were even in some respects its victims. No scheme that the wit of man could possibly have devised, was better calculated for the accomplishment of this object. It proposed simply to reconcile men to an unjust system of national policy, by admitting them to a large share of the spoils; in a word, to levy contributions by the aid of those who were to divide the plunder. If the United States had constituted one great nation, with a consolidated government, occupying a territory of limited extent, inhabited by a people engaged in similar pursuits, and having homogeneous interests, such a system would only have operated as a tax upon all the other great interests of the State, for the benefit of that which was favored by the laws; and when time had been allowed for the adjustment of society to this new condition of its affairs, the final result must have been an aggregate diminution of the profits of the whole community, by diverting a portion of the people from their accustomed employments to less profitable pursuits. In such a case, the hope might perhaps have been indulged that experience would demonstrate the egregious folly of enacting laws, the only effect of which would be to supply the wants of the community at an increased expense of labor and capital. But it is the distinguishing feature of the American System, and one which stamps upon it the character of peculiar and aggravated oppression, that it is made applicable to a CONFEDERACY of twenty-four Sovereign and Independent States; occupying a territory upwards of 2000 miles in extent; embracing every variety of soil, climate and productions; inhabited by a people whose institutions and interests are in many respects diametrically opposed to each other; with habits and pursuits infinitely diversified; and, in the great Southern section of the Union, rendered by local circumstances altogether incapable of change. Under such circumstances, a system which, under a consolidated government, would be merely impolitic, and so far an act of injustice to the whole community, becomes in this country a scheme of the most intolerable oppression, because it may be, and has in fact been, *so adjusted* as to operate exclusively to the benefit of a particular interest, and of particular sections of country, rendering in effect the industry of one portion of the confederacy tributary to the rest. The laws have accordingly been so framed as to give a direct pecuniary interest to a sectional majority, in maintaining a grand system, by which taxes are in effect imposed upon the few for the benefit of the many, and imposed too by a system of indirect taxation so artfully contrived as to escape the vigilance of the common eye, and masked under such ingenious devices as to make it extremely difficult to expose their true character. Thus under the pretext of imposing duties for the payment of the public debt, and providing for the common defence and general welfare, (powers expressly conferred on the Federal Government by the Constitution,) acts are passed, containing provisions designed exclusively and avowedly for the purpose of securing to the American manufacturers a monopoly in our own markets, to the

great and manifest prejudice of those who furnish the agricultural productions which are exchanged in foreign markets for the very articles which it is the avowed object of these laws to exclude. It so happens that six of the Southern States, whose industry is almost exclusively agricultural, though embracing a population equal to only one-third part of the whole Union, actually produce for exportation near \$40,000,000 annually, being about two-thirds of the whole domestic exports of the United States. As it is their interest, so it is unquestionably their right, to carry these fruits of their own honest industry to the best market, without any molestation, hindrance or restraint whatsoever, and subject to no taxes or other charges but such as may be necessary for the payment of the reasonable expenses of the government. But how does this system operate upon our industry? While imposts to the amount of 10 or 12 per cent (if arranged on just and equal principles,) must be admitted to be fully adequate to all the legitimate purposes of government, duties are actually imposed (with a few inconsiderable exceptions) upon all the Woollens, Cottons, Iron and Manufactures of Iron, Sugar and Salt, and almost every other article received in exchange for the Cotton, Rice and Tobacco of the South, amounting on an average to about 50 per cent; whereby (in addition to the injurious effects of this system in prohibiting some articles, and discouraging the introduction of others,) a tax equal to one half of the first cost is imposed upon the Cottons, Woollens and Iron, which are the fruits of Southern industry, in order to secure an advantage in the home market to their rivals the American manufacturers of similar articles, equivalent to one-half of their value; thereby stimulating the industry of the North, and discouraging that of the South, by granting bounties to the one, and imposing taxes upon the other.

The Committee deem it unnecessary to go into an elaborate examination of the true character and sectional operation of the protecting system. The subject has of late been so frequently and thoroughly examined, and the bearing of the System been so completely exposed, that the argument is exhausted. To the people of the Southern States, there cannot be presented a more touching or irresistible appeal either to their understandings, or their hearts, than is found in the melancholy memorials of ruin and decay, which are every where visible around us,—memorials proclaiming the fatal character of that system, which has brought upon one of the finest portions of the globe, in the full vigor of its early manhood, the poverty and desolation, which belong only to the most sterile regions, or to the old age and decrepitude of nations. The moral blight and pestilence of unwise and partial legislation, has swept over our fields, with "the besom of destruction." The proofs are every where around us.

It is in vain for any one to contend that this is a just and equal system, or that the Northern States pay a full proportion of the tax. If this were so, how is it to be accounted for, that high duties are regarded in that quarter of the Union, not as a burden, but as a blessing?

How comes it that a people, certainly not unmindful of their interests, are seen courting the imposition of taxes, and crying out against any material reduction of the public burdens? Does not this extraordinary fact afford conclusive evidence that high duties operate as a bounty to Northern industry; and that whatever taxes the manufacturers may pay, as consumers, they are more than remunerated by the advantages they enjoy as producers?—or, in other words, that they actually receive more than they pay, and therefore, cannot be justly said to be taxed at all—When in addition to all this, we take into consideration that the amount of duties annually levied for the protection of manufactures, beyond the necessary wants of the Government, (which cannot be estimated at less than 10 or 12,000,000) is expended almost exclusively in the Northern portion of the Union,—can it excite any surprise, that under the operation of the Protecting System, the manufacturing States should be constantly increasing in riches and growing in strength, with an inhospitable climate and barren soil, while the Southern States, the natural garden of America, should be rapidly falling into decay. It is contrary to the general order of Providence, that any country should long bear up against a system, by which enormous contributions, raised in one quarter, are systematically expended in another. If the sixteen millions of dollars now annually levied in duties on the foreign goods received in exchange for Southern productions, were allowed to remain in the pockets of the people, or by some just and equal system of appropriation could be restored to them, the condition of the plantation States would unquestionably be one of unexampled prosperity and happiness. Such was our condition under a system of free trade, and such would soon again be our enviable lot. Of the results which would thereby be produced, some faint conception may be formed by imagining what would be the effect upon the industry of the people of our own State, if the \$8,000,000 of foreign goods now annually received in exchange for our productions, and paying duties to the amount of upwards of \$3,000,000, could be obtained by us duty free, or the duties thus levied, were expended within our own limits. Is it not obvious that several millions per annum would thereby be added to the available industry of S. Carolina? the effect of which would assuredly be, to change the entire face of affairs in this State, by enhancing the profits of the agriculturist, accumulating capital,—giving a fresh impulse to commerce, and producing a vivifying influence upon every department of industry, the happy consequences of which would be experienced by every inhabitant of the State. We present this strong view of the subject to shew the manifest justice of the claim which South Carolina now sets up to have this system of raising revenue by duties upon imports *restricted within the narrowest limits*, and to shew how utterly impossible it is for us to consent to have it extended beyond the indispensable wants of the government either for the purpose of affording protection to the industry of others, or of distributing the proceeds among individuals or States.

Grievous, however, as the oppression unquestionably is, and calculated in the strong language of our own Legislature, "to reduce the Plantation States to POVERTY and UTTER DESOLATION," it is not in this aspect that the question is presented in its most dangerous and alarming form. It is not merely that Congress have resorted for unwarrantable purposes to an oppressive exercise of powers *granted* to them by the Constitution; but that they have *usurped a power not granted*, and have justified that usurpation on principles, which, if sanctioned or submitted to, must entirely change the character of the Government, reduce the Constitution to a dead letter, and on the ruins of our confederated republic, erect a consolidated despotism, "without limitation of powers."—If this be so, there is no man who is worthy of the precious heritage of liberty derived from our ancestors, or who values the free institutions of his country, who must not tremble for the cause of freedom, not only in this country, but throughout the world, unless the most prompt and efficient measures are at once adopted, to arrest the downward course of our political affairs, to stay the hand of oppression, to restore the Constitution to its original principles, and thereby to perpetuate the Union.

It cannot be denied that the Government of the U. States possesses no inherent powers. It was called into being by the States. The States not only created it, but conferred upon it all its powers, and prescribed its limits by a written charter called the Constitution of the U. States. Before the Federal Government had thus been called into being, the several States unquestionably possessed as full sovereignty, and were as independent of each other as the most powerful nations of the world; and in the free and undisputed exercise of that sovereignty, they entered into a solemn compact with each other, by which it was provided, that for certain specified objects, a General Government should be established with strictly limited powers;—the several States retaining their sovereignty unimpaired, and continuing to exercise all powers not expressly granted to the Federal Government.

In the clear and emphatic language of Mr. Jefferson, "the several States composing the United States of America, are not united on the principle of unlimited submission to the General Government, but by a compact under the style and title of the Constitution of the United States, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself the residuary mass of right to their own self-government, and whensoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force."\* That such is the true nature of the federal compact, cannot admit of a reasonable doubt, and it follows of necessity, that the Federal Government is merely a joint agency, created by the States—that it can exert no power not expressly granted by them, and that when it claims any power, it must be able to refer to the clause in the charter which confers it. This view of the Constitu-

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\* See Kentucky Resolutions of 1798.

tion of the U. States, brings the question of the constitutionality of the Tariff within the narrowest limits.

The regulation of *domestic industry*, so far as Government may rightfully interfere therewith, belonged to the several States before the Constitution was adopted, or the Union sprang into existence; and it still remains exclusively with them, unless it has been expressly granted to the Federal Government. If such a grant has been made, it is incumbent on those claiming, under it, to point out the provision in the Constitution which embraces it. It must be admitted that there is not a clause or article in that instrument, which has the slightest allusion, either to manufactures or to agriculture: while, therefore, the "regulation of commerce" is expressly conferred on the General Government, the regulation of every branch of domestic industry is reserved to the several States, exclusively, who may afford them encouragement, by pecuniary bounties, and by all other means, not inconsistent with the Constitution of the United States. To say that the power to regulate commerce, embraces the regulation of agriculture, and manufactures, and all the other pursuits of industry, (for they all stand upon the same footing,) is to confound the plainest distinctions, and to lose sight of the true meaning and intent of the grant in question. Commerce is, in general, regulated by treaties with foreign Nations; and, therefore, it was deemed necessary, that this power should be confided to the General Government; but agriculture, manufactures, and the mechanic arts can only be wisely ordered by municipal regulation. Commerce is one object of legislation, manufactures another, agriculture a third; and if the regulation of commerce implies an unlimited control over every thing which constitutes the object of commerce, it would follow, as a matter of course, that the Federal Government may exert a supreme dominion over the whole labour and capital of the country. This would transform our confederated Government, with strictly limited powers, into an absolute despotism, and of the worst sort, where, under the forms of a free Government, we should have the spirit of a despotic one. This view of the subject, we should deem perfectly conclusive, even if it could not be shewn that the power in question, so far from being granted, was purposely withheld from the Federal Government, by the framers of the Constitution; and that there are provisions of the Constitution, from which it may be fairly inferred, that it was intended to be reserved to the States respectively. It appears from the history of the proceedings of the Convention which framed the Constitution, that the subject of the PROTECTION of *manufactures*, was several times brought distinctly to the view of that body, and that they did not see fit to grant to the Federal Government the power in question. In the original proposition, to confer on Congress the power to impose "duties, imposts and excises," was embraced "*prohibitions and restraints*," which may well be supposed to be intended to embrace the protection of manufactures; but it is remarkable, that these words were omitted in the Report of the Committee, on that clause. On the 18th of August a motion was made, "to establish rewards

and immunities, for the promotion of agriculture, commerce, trades and manufactures;" but this position also failed. On a subsequent day, it was moved, that there should be "a Secretary of Domestic Affairs, &c., whose duty it should be to attend to matters of general police, the state of agriculture and manufactures, the opening of roads and navigation, and facilitating of intercourse through the United States; and that he shall, from time to time, recommend such measures and establishments as may tend to promote these objects." This proposition likewise failed, the Constitution containing no provision in conformity therewith.

Now, as it is utterly impossible that these several propositions, embracing imposts, duties, prohibitions and restraints, and the encouragement of manufactures, could have been disposed of, without bringing the whole question of domestic manufactures fully into view, it must follow, that, as no power was given to Congress over manufactures, while the power to regulate commerce is expressly conferred, it was not the intention of the framers of the Constitution, to entrust this power to Congress. Although repeatedly urged to confer such a power, they constantly refused it; and the Constitution, as finally ratified, contains no provision whatever upon the subject. In the report of Luther Martin, a delegate from Maryland, made to the Legislature of his State, an explanation is given of the proceedings of the Convention in relation to this matter, which removes every shadow of doubt with regard to the true meaning and intent of the framers of the Constitution, in relation to the protection of manufactures. It appears from this statement, that, as the encouragement of manufactures had been refused to be conferred upon the Federal Government, it was the desire of Mr. Martin and others, to reserve to the states all the means which they supposed to be necessary for affording effectual encouragement to manufactures within their own limits. Among those, it was presumed "that there might be cases in which it would be proper for the purpose of encouraging manufactures to lay duties to prohibit the exportation of raw materials, and even in addition to the duties laid by Congress on imports *for the sake of revenue*, to lay a duty to DISCOURAGE THE IMPORTATION OF PARTICULAR ARTICLES into a State, or to enable the manufacturer here to supply us on as good terms as could be obtained from a foreign market."\* Here it will be seen that it is positively stated by Mr. Martin, that the power given to Congress to *impose duties upon imports*, was given expressly "*for the sake of revenue*," and was not considered as extending to any duty "to discourage the importation of particular articles, for the purpose of encouraging manufactures," and that it was considered that unless the several States should possess this power as well as that of prohibiting the exportation of certain raw materials, they would not be enabled to extend that complete protection to their own manufactures which might be deemed indispensable to their success. "The most, however," says Mr. Martin, "which we could obtain was, that this

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\* Yates' Secret Debates in the Convention, p. 71.

power might be exercised by the States, by and with the consent of Congress, and subject to its control." Thus, then, it manifestly appears, that in relation to manufactures, the framers of the Constitution positively refused to confer upon the Federal Government, any power whatever; that the power to lay duties, &c. was conferred for the sake of revenue alone, and was not intended to embrace the power to lay duties "to discourage the importation of particular articles to enable the manufacturers here to supply us on as good terms as could be obtained from a foreign market;" and, finally, that the whole subject was left in the hands of the several States, with the restriction, "that no State shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing their inspection laws." This power, it appears, was expressly inserted for the purpose of enabling the States to protect their own manufactures; and this, it seems, was the only provision which the friends of domestic industry could obtain. It is vain to allege that the powers retained by the States on this subject, are inadequate to the effectual accomplishment of the object. If this were so, it would only shew the necessity of some further provision on this subject; but surely it will not be pretended that it would justify the usurpation, by Congress, of a power, not only not granted by the Constitution, but purposely withheld.

We think, however, that this exposition of the Constitution places the protection of manufactures on the true foundation, on which it should stand in such a government as ours. Nothing can be more monstrous, than that the industry of one or more States in this confederacy, should be made profitable at the expense of others, and this must be the inevitable result of any scheme of legislation by the General Government, calculated to promote manufactures by restrictions upon commerce or agriculture. But leave manufactures where agriculture and other domestic pursuits have been wisely left by the Constitution—with the several States—and ample security is furnished that no preference will be given to one pursuit over another, and if it should be deemed advisable in any particular State, to extend encouragement to manufactures, either by direct appropriations of money, or in the way pointed out in the article of the Constitution above quoted, that this will be done, not at the expense of the rest of the Union, but of the particular State whose citizens are to derive the advantages of those pursuits. Should Massachusetts, for instance, find it to her advantage to engage in the manufacture of woollens or cottons, or Pennsylvania be desirous of encouraging the working of her iron mines, let those States grant bounties out of their own treasuries, to the persons engaged in these pursuits; and should it be deemed advisable to encourage their manufactures by duties, "discouraging the importation of similar articles" in these respective States, let them make an application to Congress, whose consent would doubtless be readily given to any acts of those States, having these objects in view. The manufacturers of Massachusetts and Pennsylvania would thus be encouraged at the expense of the people of

these States respectively. But when they claim to do more than this—to encourage their industry at the expense of the industry of the people of the other States, to promote the *Manufactures of the North*, at the expense of the *Agriculture of the South*, by *restrictions upon Commerce*—in a word, to secure a monopoly for their manufactures, not only in *their own market*, but throughout the United States, then we say, that the claim is unjust, and cannot be granted consistently with the principles of the Constitution, or the great ends of a *Confederated Government*. We shall not stop to inquire whether, as has been urged with great force, that provision of the Constitution which confers the power upon Congress “to promote the progress of science and the useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries,” does not, by a necessary implication, deny to Congress the power of promoting the useful arts, (which include both agriculture and manufactures) by any other means than those here specified. It is sufficient for our purpose to shew, that the power of promoting manufactures as a distinct substantive object of legislation has no where been granted to Congress. As to the incidental protection that may be derived from the rightful exercise of the power, either of regulating commerce, or of imposing taxes, duties and imposts, for the legitimate purposes of government—this certainly may be as freely enjoyed by manufactures as it must be by every other branch of domestic industry. But as the power to regulate commerce, conferred expressly for its security, cannot be fairly exerted for its destruction, so neither can it be perverted to the purpose of building up manufacturing establishments—an object entirely beyond the jurisdiction of the Federal Government—so also the power to levy taxes, duties, imposts and excises, expressly given for the purpose of raising *revenue*, cannot be used for the discouragement of importations, for the purpose of promoting manufactures, without a gross and palpable violation of the plain meaning and intent of the federal compact. Acts may be passed on these subjects, falsely purporting, on their face, to have been enacted for the purposes of raising revenue and regulating commerce; but if in truth they are designed, (as the acts of 1824, 1828, and 1832, *confessedly* and *avowedly* have been,) for an entirely different purpose, viz: for the encouragement and promotion of manufactures, the violation of the Constitution is not less gross, deliberate and palpable, because it assumes the most dangerous of all forms, *a violation by perversion*, the use of a power granted for one purpose, for another and a different purpose, in relation to which Congress has no power to act at all. On the whole, even from the very brief and imperfect view which we have here taken of this subject, we think we have demonstrated that the protecting system is as GROSS and PALPABLE a VIOLATION of the CONSTITUTION, according to its true spirit, intent and meaning, as it is unquestionably UNEQUAL, OPPRESSIVE and UNJUST in its bearing upon the great interests of the country, and the several sections of the Union.



But great as are the evils of the American System, fatal as it assuredly must be to the prosperity of a large portion of the Union, and gross as is the violation of the letter and spirit of the Constitution which it perpetrates, the consequences which must inevitably result from the establishment of the pernicious principles on which it is founded, are evils of still greater magnitude. An entire change in the character of the government is the natural and necessary consequences of the application to the Constitution of those latitudinous rules of construction, from which this system derives its existence, and which must "consolidate the States by degress into one sovereignty; the obvious tendency and inevitable result of which would be to transform the present representative system of the United States into a monarchy."\*

We fearlessly appeal to all considerate men, whether it be, in the nature of things, possible to hold together such a confederacy as ours, by any means short of a military despotism, after it has degenerated into a CONSOLIDATED GOVERNMENT—that is to say, after it shall come to be its established policy to exercise a *general legislative control* over the interests and pursuits of the whole American people.

Can any man be so infatuated as to believe, that Congress could regulate wisely the whole labor and capital of this vast confederacy? Would it not be a burden too grievous to be borne, that a great central government, necessarily ignorant of the condition of the remote parts of the country, and regardless perhaps of their prosperity, should undertake to interfere with their domestic pursuits, to control their labor, to regulate their property, and to treat them in all respects as *DEPENDANT COLONIES*, governed not with reference to their own interests, but the interests of others? If such a state of things must be admitted to be altogether intolerable, we confidently appeal to the sober judgment and patriotic feelings of every man who values our free institutions and desires to preserve them—whether the progress of the government towards this result has not of late years been rapid and alarming? and whether, if the downward course of our affairs cannot be at once arrested—the consummation of this system is not at hand? No sooner had Congress assumed the power of building up manufactures, by successive tariffs—calculated and intended to drive men from agriculture and commerce into more favored pursuits—than internal improvements sprung at once into vigorous existence. *Pensions* have been enlarged to an extent not only before unknown in any civilized country, but they have been established on such principles, as manifest the settled purpose of bestowing the public treasure in gratuities to particular classes of persons and particular sections of country. *Roads and canals* have been commenced and surveys made in certain quarters of the Union, on a scale of magnificence, which evinces a like determination to distribute the public wealth into new and favored channels; and it is in entire accordance both with the theory and practice of this new system,

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\* Madison's Report.

that the General Government should absorb all the authority of the States, and eventually become the grand depository of the powers, and the general guardian and distributor of the wealth of the whole Union. It is known to all who have marked the course of our national affairs that Congress has undertaken to create a **BANK**, and have already assumed jurisdiction over *science* and the *arts*, over *education* and *charities*, over *roads* and *canals*, and almost every other subject formerly considered as appertaining exclusively to the States, and that they claim and exercise an *unlimited control* over the appropriation of the *public lands* as well as of the *public money*. On looking indeed to the legislation of the last ten years, it is impossible to resist the conviction that a fatal change has taken place in the whole policy and entire operation of the Federal Government—that in every one of its departments it is both in theory and practice rapidly verging towards Consolidation.—Asserting judicial supremacy over the sovereign States, extending **EXECUTIVE PATRONAGE** and influence to the remotest ramifications of society, and assuming legislative control over every object of local concernment, thereby reducing the States to petty corporations, shorn of their sovereignty, mere parts of one great whole, standing in the same relation to the Union as a county or parish to the State of which it is a subordinate part.

Such is the true character, and such the inevitable tendencies of the **AMERICAN SYSTEM**. And when the case thus plainly stated, is brought home to the bosoms of patriotic men, surely it is not possible to avoid the conclusion, that a political system founded on such principles must bear within it the seeds of premature dissolution—and that though it may for a season be extended, enlarged and strengthened, through the corrupting influence of patronage and power, until it shall have embraced in its serpent folds all the great interests of the State, still the time must come when the people, deprived of all other means of escape, will rise up in their might, and release themselves from this thralldom, by one of those violent convulsions, whereby society is uprooted from its foundations, and the edict of **REFORM** is written in **BLOOD**.

Against this system South Carolina has remonstrated in the most earnest terms. As early as 1820, there was hardly a district or parish in the whole State from which memorials were not forwarded to Congress, the general language of which was, that the protecting system was "utterly subversive of their rights and interests."—Again in 1823 and 1827, the people of this State rose up almost as one man, and declared to Congress and the world, "that the protecting system was unconstitutional, oppressive and unjust." But these repeated remonstrances were answered only by repeated injuries and insults—by the enacting of the tariffs of 1824 and 1828. To give greater dignity, and if possible more effect to these appeals, the Legislature, in December, 1825, solemnly declared, "that it was an unconstitutional exercise of power on the part of Congress to lay duties to protect domestic manufactures;" and in 1828, they caused to be presented to the Senate of the United States, and claimed to have it recorded on its Journals, the solemn

PROTEST of the State of South Carolina, denouncing this system as "*utterly unconstitutional, grossly unequal and oppressive, and such an abuse of power as was incompatible with the principles of a free government, and the great ends of civil society,*" and that they were "*then only restrained from the assertion of the sovereign rights of the State, by the hope that the magnanimity and justice of the good people of the Union would effect an abandonment of a system partial in its nature, unjust in its operation, and not within the powers delegated to Congress.*" And finally, in December, 1830, it was Resolved, "That the several Acts of Congress imposing duties on imports, for the protection of domestic manufactures, are highly dangerous, and oppressive violations of the constitutional compact; and that whenever the States which are suffering under the oppression shall lose all reasonable hope of redress from the wisdom and justice of the Federal Government, it will be their right and duty to interpose, in their sovereign capacity, for the purpose of arresting the progress of the evil occasioned by the said unconstitutional acts."

Nor has South Carolina stood alone in the expression of these sentiments: Georgia and Virginia, Alabama and Mississippi, and North Carolina have raised their voices in earnest remonstrances and repeated warnings. Virginia, in 1828, in responding to South Carolina, declared "that the Constitution of the United States, being a federative compact between sovereign States, in construing which no common arbiter is known, each State has a right to construe the compact for itself; and that Virginia, as one of the high contracting parties, feels itself bound to declare, and does hereby most solemnly declare its deliberate conviction, that the acts of Congress usually denominated the Tariff Laws, passed avowedly for the protection of domestic manufactures, are not authorized by the plain construction, true intent and meaning of the Constitution."

Georgia, through her Legislature, pronounced this system to be one "which was grinding down the resources of one class of the States to build up and advance the prosperity of another of the same confederacy—and which they solemnly believed to be contrary to the letter and spirit of the Federal Constitution," and declared it to be the right of the several states, in case of any infraction of the general compact, "to complain, remonstrate, and even *refuse obedience* to any measure of the General Government manifestly against and in violation of the Constitution; that otherwise the law might be violated with impunity, and without redress, as often as the majority might think proper to transcend their powers, and the parts injured would be bound to yield an implicit obedience to the measure, however unconstitutional, which must tend to annihilate all sovereignty and independence of the States and consolidate all power in the General Government, which never was designed nor intended by the framers of the Constitution."

Alabama also protested against "the attempt to exclude the foreign in favor of the domestic fabrics, as the exercise of a power not granted by the Constitution," and concluded by stating "that

she wished it to be distinctly understood, that in common with the other Southern and South-Western States, she regards the power asserted by the General Government to control her *internal concerns* by protecting duties, as a *palpable usurpation* of powers, not given by the Constitution, and a species of oppression little short of legalized pillage."

North Carolina, in the same spirit, declared that while "it was conceded that Congress have the express power to lay imposts, she maintains that that power was given for the purpose of *Revenue*, and Revenue alone, and that every other use of the power is an usurpation on the part of Congress." And finally, the Legislature of Mississippi, "Resolved, That the State of Mississippi concurs with the States of Georgia, South Carolina and Virginia, in their different resolutions upon the subject of the *Tariff*, Colonization Society and Internal Improvement."

It has been in the face of all these remonstrances and protests, and in defiance of these repeated warnings and solemn declarations, that the recent modification of the *Tariff*, by the Act of 1832 was effected. The period of the final extinction of the Public Debt had been looked to as the crisis of our fate, when the policy of the country in reference to the Protective System was to be finally settled. It was the period assigned by common consent, as the utmost limit of the forbearance of South Carolina, whose citizens felt that in the adoption of that System, their Constitutional Rights had been trampled on, and their dearest interests cruelly sacrificed.

No one could fail to perceive, that when every pretext for the continuance of the high duties under which the Southern States had suffered for so many years, was taken away by the payment of the National Debt, and the consequent relief of the Treasury from an annual demand of twelve million of dollars, that no reason could be given why these duties should not be brought down to the revenue standard, except that it was deliberately designed to secure to the Manufacturers forever, the monopoly they had so long enjoyed, at the expense of the other great interests of the country.

We find accordingly, that the new *Tariff*, which is intended to take effect, only after the final extinguishment of the Public Debt, has been arranged and adjusted with a single eye, to the perpetuation of this System; and with an entire disregard of the just claims of the Plantation States. Whatever may be the amount of the aggregate reduction effected by this bill; (and it is not pretended in the *latest Treasury estimate*, to exceed \$5,000,000, of which near 4,000,000 of dollars are on the unprotected articles,) it is not denied that it will leave a surplus of many millions in the Treasury, beyond the usual expenses or necessary wants of the Government, and it is notorious—nay, it appears on the face of the Bill itself, that while duties to the amount of 40—50 and even 100 per cent. are still to be levied upon the protected articles, (that is to say, upon all the Cottons, Woollens, and Iron, the Sugar and the Salt, and other articles embraced in the Protecting System;) the duties on the unprotected articles, have been reduced greatly below the revenue standard, and upwards of \$3,000,000 entirely repealed; so that according to this System, as

now established, a large surplus revenue to be applied to Internal Improvements and other unwarrantable purposes, is to be levied by the imposition of enormous Taxes on the necessities of life, the very articles received chiefly in exchange for Southern productions; and this has been done, in order to protect the industry of the North, with which ours comes into competition, while the articles of luxury universally acknowledged to be the fittest subjects for Taxation, are to be admitted, duty free.\*

Now, let it be remembered, that the very point in controversy, has all along been, not the *Revenue*, but the *Protecting* duties, and yet we see, that in answer to all our petitions and remonstrances, Congress has been graciously pleased to make an adjustment of the Tariff, which simply consists in taking off the duties imposed for Revenue, while the protecting duties are allowed to remain substantially untouched. It was not so much the amount of the imposition, as the inequality and injustice of the Protecting System, that has roused the people of South Carolina to determined resistance, and yet we find, that this inequality has been aggravated, and that injustice, perpetuated by the deliberate adoption of a measure, which was calculated and intended to rivet this System upon us, beyond all hope of relief.

The grave and solemn question now occurs, what is to be done to redeem ourselves from the state of Colonial vassalage into which we have unhappily fallen? Shall we still continue to wait for a returning sense of justice on the part of our oppressors? We are thoroughly persuaded, that the hope can no longer be indulged, that the tariff majority in Congress will, of their own accord, relieve us from this cruel bondage—experience teaches us that this expectation so long and fondly indulged, is utterly delusive. The only effect of further delay must be to strengthen the hand of the oppressor, to crush the public spirit—deaden the sensibility of the people to the inestimable value of their rights—and teach them the degrading lesson of wearing their chains in patience. It is almost inconceivable that any reflecting man can believe that the crisis in our affairs arising from the final extinction of the public debt, should be suffered to pass away, without reducing the tariff to the revenue standard, and yet that such reduction may be expected to take place at some future period. What period so auspicious as that which has been allowed to pass away unimproved? Is any one so ignorant of human nature, as not to know that the annual surplus, which then will be brought into the Treasury, under the act of 1832, will be speedily absorbed by new and enlarged appropriations serving as additional props to a system, which some vainly imagine to be tottering on its base, ready to fall under its own weight? Even at the last session of Congress, the annual appropriations were enlarged by several millions of dollars, in anticipation of this expected surplus, and the foundation is already laid for its absorption; and when this shall be accomplished, where will be the hopes of those who now say that the evil is to correct itself, and

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\* See Treasury Estimate published in August last shewing an aggregate reduction of \$5,187,073, of which \$3,103,631 were made *entirely free*.

who tell us that the act of 1832, which was in fact designed to rivet the system upon the country forever—and was hailed by its friends as “a clear, distinct, and indisputable admission of the principle of protection,” is to be viewed as a blessed reform presenting the brightest auspices for the future? The truth unquestionably is, that the American System is from its very nature progressive. When its foundations were laid, it was foreseen and predicted that the great interests which it would build up, would exert a controlling influence over the legislation of the country. The history of the world indeed affords no example of a voluntary relinquishment by a favored class of any pecuniary or political advantage, secured to them by the laws and general policy of the country. Force has often torn from the hands of the oppressor, his unrighteous gains, but reason and argument are as vain in convincing the understanding, as appeals to justice and magnanimity have ever proved to be impotent in softening the hearts of those who are enriched under the operation of laws passed professedly for the public good. Who is there, that can for one moment believe that any thing short of a direct appeal to their interests will induce the dependants upon the Federal Government, the wealthy sugar planters and iron masters, or the joint stock companies, who have millions invested in cotton and woollen factories, yielding under the operation of the protecting system an annual income of 10 or 20 per cent, voluntarily to relinquish the advantage secured to them by the laws, and consent to come down to a level with the other classes of the community? It is impossible. From every view then which your committee have been able to take of this subject, they are constrained to announce to this Convention, the solemn truth that after more than ten years of patient endurance of a system, which is believed by the people of this state to be *fatal to their prosperity and a gross, deliberate, and palpable violation of their constitutional rights*—after the most earnest and unavailing appeals to that sense of justice, and those common sympathies, which ought to bind together the different members of a confederated republic, the crisis has at length arrived, when the question must be solemnly and finally determined, whether there remain any means, within the power of the State, by which these evils may be redressed?

It is useless to disguise the fact, or to attempt to delude ourselves on this subject; *the time has come* when the State must either adopt a *decisive course of action*, or we must at once *abandon the contest*. We cannot again petition—it would be idle to remonstrate, and degrading to protest. In our estimation it is now a question of *Liberty or Slavery*. It is now to be decided, whether we shall maintain the rights purchased by the precious blood of our fathers, and transmit them unimpaired to our posterity, or tamely surrender them without a struggle. We are constrained to express our solemn conviction, that under the protecting system, we have been reduced to a state of “colonial dependence, suffering and disgrace,” and that unless we now fly with the spirit which becomes freemen to the rescue of our liberties, they are lost forever,—Brought up in an ardent devotion to the Union of the States, the

people of South Carolina have long struggled against the conviction, that the powers of the Federal Government have been shamefully perverted to the purposes of injustice and oppression. Bound to their brethren by the proud recollections of the past, and fond hopes of the future, by common struggles for liberty and common glories, acquired in its defence—they have been brought slowly, and with the utmost reluctance, to the conclusion, that they are shut out from their sympathies, and made the unpitied victims of an inexorable system of tyranny, which is without example in any country claiming to be free. Experience has at length taught us the lamentable truth, that administered as the government now is, and has been for several years past, in open disregard of all the limitations prescribed by the Constitution, the Union itself, instead of being a blessing must soon become a curse. Liberty we are thoroughly persuaded, cannot be preserved under our system without a sacred and inviolable regard not merely to the letter, but to the true spirit of the Constitution; and without liberty the Union would not be worth preserving. If then there were no other alternatives but to submit to these evils, or to seek a remedy even in Revolution itself, we could not without proving ourselves recreant to the principles hallowed by the example of our ancestors, hesitate a moment as to our choice. We should say, in the spirit of our fathers, “we have counted the cost, and find nothing so intolerable as voluntary slavery.” But we cannot bring ourselves for one moment to believe that the alternatives presented to us are revolution or slavery. We confidently believe that there is a redeeming spirit in our institutions, which may on great occasions be brought to our aid for the purpose of preserving the public liberty—restoring the Constitution—and effecting a regeneration of the government, and thereby producing a redress of intolerable grievances, without war, revolution, or a dissolution of the Union. These great objects, we feel assured, may even now be effected, unless those who are in possession of the powers of the government and charged with the administration of our national affairs, shall resolve to persevere in a course of injustice, and prove by their conduct that they love the usurpation (to which the people of this State are unalterably determined not to submit) better than the Union. We believe that the redeeming spirit of our system is STATE SOVEREIGNTY, and that it results from the very form and structure of the Federal Government, that when the rights reserved to the several States are deliberately invaded, it is their right and their duty to “interpose for the purpose of arresting the progress of the evil of usurpation, and to maintain within their respective limits the authorities and privileges belonging to them as independent sovereignties.”\* If the several States do not possess this right, it is in vain that they claim to be sovereign. They are at once reduced to the degrading condition of humble dependents on the will of the Federal Government. South Carolina claims to be a sovereign State. She recognizes no tribunal upon earth as above her authority. It is true she has entered into a solemn com-

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\* Virginia Resolutions of '98.

compact of Union with other sovereign States, but she claims, and will exercise the right to determine the extent of her obligations under that compact, nor will she consent that any other power shall exercise the right of judgment for her. And when that compact is violated by her co-States, or by the government which they have created, she asserts her unquestionable right, "*to judge of the infractions, as well as of the MODE and MEASURE OF REDRESS.*"\*—South Carolina claims no right to judge for others. The States who are parties to the compact, must judge each for itself, whether that compact has been pursued or violated, and should they differ irreconcilably in opinion, there is no earthly tribunal, that can authoritatively decide between them. It was in the contemplation of a similar case, that Mr. Jefferson declared that if the difference could neither be compromised, nor avoided, it was the peculiar felicity of our system, to have provided a remedy in a Convention of all the States, by whom the Constitution might be so altered or amended, as to remove the difficulty. To this tribunal, South Carolina is willing that an appeal should now be made, and that the constitutional compact should be so modified as to accomplish all the great ends for which the Union was formed, and the Federal Government constituted, and at the same time, restore the rights of the States, and preserve them from violation hereafter. Your Committee purposely avoid entering here into an examination of the nature and character of this claim, which South Carolina asserts, to interpose her sovereignty, for the protection of her citizens from the operation of unconstitutional laws, and the preservation of her own reserved rights. In an Address, which will be submitted to the Convention, this subject will be fully examined, and they trust that it will be made to appear, to the entire satisfaction of every dispassionate mind, that in adopting the ORDINANCE which the Committee herewith report, declaring the Tariff laws passed for the protection of Domestic Manufactures, null and void, and not law, and directing the Legislature to provide, that the same shall not be enforced within the limits of this State—South Carolina will be asserting her unquestionable rights, and in no way violating her obligations under the Federal compact,

The Committee cannot dismiss this point, however, even for the present, without remarking that in asserting the principles, and adopting the course, which they are about to recommend, South Carolina will only be carrying out the doctrines, which were asserted by Virginia and Kentucky in 1798, and which have been sanctioned by the high authority of Thomas Jefferson. It is from the pen of this great apostle of liberty, that we have been instructed that to the Constitutional compact, "each State acceded as a State, and is an integral party, its co-States forming as to itself the other party," that "they alone being parties to the compact, are solely authorized to judge in the last resort of the powers exercised under it; Congress being not a party but merely the creature of the compact," that "it becomes a sovereign State, to submit to undelegated and consequently unlimited power in no man or

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\* Kentucky Resolutions of 1798.



body of men on earth; that in cases of abuse of the *delegated powers*, the members of the General Government being chosen by the people, a change by the people would be the Constitutional remedy, but where powers are assumed which have not been delegated [the very case now before us] A NULLIFICATION OF THE ACT IS THE RIGHTFUL REMEDY; that every State has a natural right in cases not within the compact [*casus non fæderis*] to NULLIFY of their own authority all assumption of power by others within their limits, and that without this right they would be under the dominion, absolute and unlimited, of whomsoever might exercise the right of judgment for them," and that in case of acts being passed by Congress "so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed to exercise over the States all powers whatsoever, by seizing the rights of the States, and consolidating them in the hands of the General Government with a power assumed of binding the States, not merely in cases made federal, but in all cases whatsoever, by laws made, not with their consent, but by others against their consent, it would be the duty of the States to declare the acts void and of no force, and that *each should take measures of its own* for providing that neither such acts, nor any other of the General Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories."

In acting on these great and essential truths, South Carolina surely cannot err. She is convinced, and has so declared to Congress and the World, that the protecting system is in all its branches a "gross, deliberate, and palpable violation of the Constitution." She believes that after having exhausted every other means of redress in vain, it is her right, and that it has now become her solemn duty, to interpose for arresting the evil within her own limits, by declaring said acts "to be null and void and no law, and taking measures of her own that they shall not be enforced within her territory." That duty she means to perform, and to leave the consequences in the hands of *Him*, with whom are the issues of life and the destinies of nations.

South Carolina will continue to cherish a sincere attachment to the UNION of the States, and will to the utmost of her power endeavor to preserve it, "and believes that for this end, it is her duty to watch over and oppose any infraction of those principles which constitute the only basis of that union, because a faithful observance of them can alone secure its existence." She venerates the CONSTITUTION, and will protect and defend it "against every aggression either foreign or domestic," but above all, she estimates as beyond all price her LIBERTY, which she is unalterably determined never to surrender while she has the power to maintain it. Influenced by these views, your committee report herewith for the adoption of the Convention, a solemn DECLARATION and ORDINANCE.

## AN ORDINANCE

### To Nullify certain acts of the Congress of the United States, purporting to be Laws laying Duties and Imposts on the importation of Foreign Commodities.

WHEREAS, the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the Confederacy: And, Whereas, the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorises it to effect and accomplish, hath raised and collected unnecessary revenue, for objects unauthorized by the Constitution;

We, therefore, the people of the State of South Carolina, in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially an act entitled "An act in alteration of the several acts imposing duties on imports," approved on the nineteenth day of May, one thousand eight hundred and twenty-eight; and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts and obligations made or entered into, or to be made or entered into with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void:

And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States, within the limits of this State, from and after the first day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined to obey and give effect to this ordinance and such acts and measures of the Legislature as may be passed or adopted in obedience thereto:

And it is further ordained that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this Ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of court.

And it is further ordained, That all persons now holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such manner as the Legislature shall prescribe, take an oath, well and truly to obey, execute and enforce this Ordinance, and such act or acts of the Legislature, as may be passed in pursuance thereof, according to the true intent and meaning of the same, and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead, or had resigned; and no person hereafter elected to any office of honor, profit or trust, civil or military, (members of the Legislature excepted,) shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be impanelled in any of the courts of this State, in any cause in which shall be in question this Ordinance or any act of the Legislature, passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath, that he will well and truly obey, execute and enforce this Ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof:

And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this, our ordinance and declaration, at every hazard, do further declare, that we will not submit to the application of force on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act, abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels, to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organise a separate Government, and do all other acts and things which sovereign and independent States may of right do.

Done in Convention, at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the Declaration of the Independence of the United States of America.

JAMES HAMILTON, JUN. *President of the Convention, and Delegate from St. Peters.*

James Hamilton, sen.  
Richard Bohun Baker, sen.  
Samuel Warren,  
Nathaniel Heyward,  
Robert Long,  
J. B. Earle,  
L. M. Ayer,  
Benjamin Adams,  
James Adams,  
James Anderson,  
Robert Anderson,  
William Arnold,  
John Ball,  
Barnard E. Bee,  
Thomas W. Boone,  
R. W. Barnwell,  
Isaac Bradwell, jr.  
Thomas G. Blewett,  
P. M. Butler,  
John G. Brown,  
J. G. Brown,  
John Bauskett,  
A. Burt,

James Lynah,  
Francis Y. Legate,  
Alex. J. Lawton,  
John Lipscomb,  
John Logan,  
J. Littlejohn,  
A. Lancaster,  
John Magrath,  
Benj. A. Markley,  
John S. Maner,  
Wm. M. Murray,  
R. G. Mills,  
John B. McCall,  
D. H. Means,  
R. G. Mays,  
George McDuffie,  
James Moore,  
John L. Miller,  
Stephen D. Miller,  
John B. Miller,  
R. P. McCord,  
John L. Nowell,  
Jennings O'Bannon,

Francis Burt, jr.  
 Bailey Barton,  
 A. Bowie,  
 James A. Black,  
 A. H. Belin,  
 Philip Cohen,  
 Samuel Cordes,  
 Thomas H. Colcock,  
 C. J. Colcock,  
 Charles G. Capers,  
 Wm. C. Clifton,  
 West Caughman,  
 John Counts,  
 Benjamin Chambers,  
 I. A. Campbell,  
 Wm. Dubose,  
 John H. Dawson,  
 John Douglas,  
 George Douglas,  
 F. H. Elmore,  
 Wm. Evans,  
 Edmund J. Felder,  
 A. Fuller,  
 Theo. L. Gourdin,  
 Peter G. Gourdin,  
 T. J. Goodwyn,  
 Peter Gaillard, jun.  
 John K. Griffin,  
 George W. Glenn,  
 Alex. L. Gregg,  
 Robert Y. Hayne,  
 William Harper,  
 Thomas Harrison,  
 John Hatton,  
 Thomas Harlee,  
 Abm. Huguenin,  
 Jacob Bond P'On,  
 John S. Jeter,  
 Job Johnston,  
 John S. James,  
 M. Jacobs,  
 J. A. Keith,  
 John Key,  
 Jacob H. King,  
 Stephen Lacoste,

J. Walter Phillips,  
 Charles Parker,  
 Wm. Porcher,  
 Edward G. Palmer,  
 Chs. C. Pinckney,  
 Wm. C. Pinckney,  
 Thomas Pinckney,  
 Francis D. Quash,  
 John Rivers,  
 Donald Rowe,  
 Benjamin Rogers,  
 Thomas Ray,  
 James G. Spann,  
 James Spann,  
 S. L. Simons,  
 Peter J. Shand,  
 James Mongin Smith,  
 G. H. Smith,  
 Wm. Smith,  
 Stephen Smith,  
 Wm. Stringfellow,  
 Edwin J. Scott,  
 F. W. Symmes,  
 J. S. Sims,  
 T. D. Singleton,  
 Joseph L. Stevens,  
 T. E. Screven,  
 Robt. J. Turnbull,  
 Elisha Tyler,  
 Philip Tidyman,  
 Isaac B. Ulmer,  
 Peter Vaught,  
 Elias Vanderhorst,  
 John L. Wilson,  
 Isham Walker,  
 Wm. Williams,  
 Thos. B. Woodward,  
 Sterling C. Williamson,  
 F. H. Wardlaw,  
 Abner Whatley,  
 J. T. Whitefield,  
 Saml. L. Watt,  
 Nicholas Ware,  
 Wm. Waties,  
 Archibald Young.

[Attest,]

ISAAC W. HAYNE,  
*Clerk of the Convention.*

## ADDRESS

### To the People of South Carolina, by their Delegates in Convention.

FELLOW CITIZENS,

The situation in which you have been placed by the usurpations of the Federal Government, is one which you so peculiarly feel, as to render all reference to it at this moment unnecessary. For the last ten years the subject of your grievances has been presented to you. This subject you have well considered. You have viewed it in all its aspects, bearings and tendencies, and you seem more and more confirmed in the opinion, expressed by both branches of the Legislature, that the Tariff, in its operation, is not only "grossly unequal and unjust, but is such an abuse of power as is incompatible with the principles of a Free Government, and the great ends of civil society;" and that if persisted in, "the fate of this State would be poverty and utter desolation." Correspondent with this conviction, a disposition is manifested in every section of the country, to arrest, by some means or other, the progress of this intolerable evil. This disposition having arisen from no sudden excitement, but having been gradually formed by the free and temperate discussions of the Press, there is no reason to believe that it can ever subside by any means short of the removal of the urgent abuse; and it is under this general conviction, that we have been convened to take into consideration, not only the character and extent of your grievances, but also the mode and measure of redress.

This duty, fellow citizens, we have discharged to the best of our judgments, and the result of our deliberations will be found in the DECLARATION and ORDINANCE just passed by us, founded on the great and undeniable truth, that in all cases of a palpable, oppressive and dangerous infraction of the Federal compact, each State has a right to annul, and to render inoperative within its limits, all such unauthorized acts. After the luminous expositions which have been already furnished by so many great minds, that the exercise of this right is compatible with the first principles of our ancestral scheme of government, it would be superfluous here to state at length the reasons by which this mode of redress is to be sustained. A deference, however, for the opinions of those of our fellow citizens, who have hitherto dissented from us, demands that we should briefly state the principal ground upon which we place the right and the expediency of Nullification.

The Constitution of the United States, as is admitted by cotemporary writers, is a compact between Sovereign States.

Though the subject matter of that compact was a Government, the powers of which *Government* were to operate, to a *certain extent*, upon the People of those Sovereign States, *aggregately*, and not upon the State Authorities, as is usual in confederacies, still the Constitution is a Confederacy. First. It is a Confederacy, because in its FOUNDATIONS it possesses not one single feature of *nationality*. The people of the separate States, as distinct political communities, *ratified* the Constitution, each State acting for itself, and binding its own citizens, and not those of any other State. The act of ratification declares it "to be binding on the *States* so ratifying. The *States* are its authors—their power created it—their voice clothed it with authority—the Government it formed is in reality *their* Government, and the Union of which it is a bond is a Union of *States*, and not of individuals." Secondly. It is a Confederacy, because the *EXTENT* of the powers of the Government depends, not upon the People of the United States *collectively*, but upon the State legislatures, or on the people of the separate States, acting in their State Conventions, each State being represented by a single vote,

It must never be forgotten, that it is to the *creating* and to the *controlling* power, that we are to look for the true character of the Federal Government; for the present controversy is, not as to the *SOURCES* from which the ordinary powers of the Government are drawn; these are partly *federal* and partly *national*. Nor is it relevant to consider upon *whom* these powers operate. In this last view, the Government, for *limited* purposes, is entirely national. The true question is, who are the parties to the compact? Who created, and who can alter and destroy it? Is it the *States* or the *People*? This question has been already answered. The *States*, as *States*, ratified the compact. The People of the United States, collectively, had no agency in its formation. There did not exist then, nor has there existed at any time since, such a political body as the People of the United States. There is not now, nor has there ever been such a relation existing, as that of a citizen of New-Hampshire, and a citizen of South Carolina, bound together in the same *Social Compact*. It would be a waste of time to dwell longer on this part of our subject. We repeat, that as regards the FOUNDATION, and the *EXTENT* of its powers, the Government of the United States is, strictly, what its name implies, a *FEDERAL Government*—a league between several Sovereigns, and in these views, a more perfect Confederacy has never existed in ancient or modern times.

On looking into this Constitution, we find that the most important sovereign powers are delegated to the central Government, and all other powers are reserved to the States. A foreign or an inattentive reader, unacquainted with the origin, progress and history of the Constitution, would be very apt, from the phraseology of the instrument, to regard the States as having divested themselves of their Sovereignty, and to have become great corporations subordinate to one Supreme Government. But this is an error. The States are as Sovereign now, as they were prior to

their entering into the compact. In common parlance, and to avoid circumlocution, it may be admissable enough to speak of *delegated* and *reserved* Sovereignty. But correctly speaking, Sovereignty is an unit. It is "one, indivisible and unalienable." It is therefore an absurdity to imagine, that the Sovereignty of the States is surrendered in *part* and retained in *part*. The Federal Constitution is a treaty, a confederation, an alliance by which so many Sovereign States agree to exercise their sovereign powers *conjointly* upon certain objects of external concern, in which they are equally interested, such as WAR, PEACE, COMMERCE, Foreign Negotiation, and Indian Trade; and upon all other subjects of civil government, they were to exercise their Sovereignty *separately*. This is the true nature of the compact.

For the convenient conjoint exercise of the Sovereignty of the States there must of necessity be some common agency or functionary. This agency is the Federal Government. It represents the confederated States, and executes their joint will, as expressed in the compact. The powers of this government are wholly *derivative*. It possesses no more inherent sovereignty, than an incorporated town, or any other great corporate body—it is a political corporation, and like all corporations, it looks for its powers to an exterior source. That source is the States. It wants that "irresistible, absolute, uncontrolled authority," without which, according to jurists, there can be no sovereignty. As the States conferred, so the States can take away its powers. All inherent sovereignty, is therefore in the States. It is the MORAL OBLIGATION alone, which each State has chosen to impose upon herself, and not the want of sovereignty, which restrains her from exercising all those powers, which (as we are accustomed to express ourselves) she has surrendered to the Federal Government. The present organization of our Government, as far as regards the terms in which the powers of Congress are delegated, in no wise differs from the old Confederation. The powers of the Old Congress were delegated rather in stronger language, than we find them written down in the new charter, and yet he would hazard a bold assertion, who would say, that the States of the Old Confederacy, were not as Sovereign as Great Britain, France and Russia, would be in an alliance offensive and defensive. It was not the reservation in express terms of the "Sovereignty, Freedom, and Independence of each State" which made them Sovereign. They would have been equally Sovereign, as is universally admitted, without such a reservation.

We have said thus much upon the subject of Sovereignty because the only foundation upon which we can safely erect the right of a State to protect its citizens, is, that South Carolina by the Declaration of Independence, became and has since continued a Free, Sovereign and Independent State. That as a Sovereign State, she has the *inherent* power, to do all those acts, which by the law of nations, any Prince or Potentate may of right do. That like all independent States, she neither has, nor ought she to suffer any other restraint upon her sovereign will and pleasure,



than those high moral obligations, under which all Princes and States are bound before God and man, to perform their solemn pledges. The inevitable conclusion from what has been said therefore is, that as in all cases of compact between Independent Sovereigns, where from the very nature of things, there can be no common judge or umpire, each sovereign has a right "to judge as well of infractions, as of the mode and measure of redress," so in the present controversy, between South Carolina and the Federal Government, it belongs solely to her, by her delegates in solemn Convention assembled, to decide, whether the federal compact be violated, and what remedy the State ought to pursue. South Carolina therefore cannot, and will not yield to any department of the Federal Government, and still less to the Supreme Court of the United States, the creature of a Government, which itself is a creature of the States, a right which enters into the essence of all sovereignty, and without which, it would become a bauble and a name.

It is fortunate for the view which we have just taken, that the history of the Constitution, as traced through the Journals of the Convention which framed that instrument, places the right contended for upon the same foundation. These journals furnish abundant proof, that "no line of jurisdiction between the States and Federal Government in doubtful cases," could be agreed on. It was conceded by Mr. Madison and Mr. Randolph, the most prominent advocates for a Supreme Government, that it was impossible to draw this line, because no tribunal sufficiently impartial, as they conceived could be found, and that there was no alternative, but to make the Federal Government supreme, by giving it, in all such cases, a negative on the acts of the State Legislatures. The pertinacity with which this negative power was insisted on by the advocates of a national Government, even after all the important provisions of the *judiciary* or *third article* of the Constitution were arranged and agreed to, proves beyond doubt, that the Supreme Court was never contemplated by either party in that Convention, as an arbiter, to decide conflicting claims of rovereignty between the States and Congress; and the repeated rejection of all proposals to take from the States, the power of placing their own construction upon the articles of Union, evinces that the States were resolved never to part with the right to judge whether the acts of the Federal Legislature were or were not, an infringement of those articles.

Correspondent with the right of a Sovereign State to judge of the infractions of the Federal Compact, is the duty of this Convention to declare the extent of the grievance, and the mode and measure of redress. On both these points, public opinion has already anticipated us, in much that we could urge. It is doubted, whether in any country, any subject has undergone before the people, a more thorough examination than the constitutionality of the several acts of Congress for the protection of Domestic Manufactures. Independent of the present embarrassments, they throw in the way of commerce, and the plain indications, that certain articles, which

are the natural exchange for our valuable staple products, are sooner or later to be virtually prohibited—Independent of the diminution, which these impost duties cause in our incomes, and the severity of the Tax upon all articles of consumption needed by the poor, they recognize a principle, not less at war with the ends for which this great confederacy was formed, than it is with that spirit of justice, and those feelings of concord which ought to prevail amongst States, united by so many common interests and exalted triumphs. The people surely need not be told, in this advanced period of intellect and of freedom, that no government can be free, which can rightfully impose a tax, for the encouragement of one branch of industry at the expense of all others, unless such a tax be justified by some great, and unavoidable public necessity. Still less can the people believe, that in a confederacy of States, designed principally as an alliance offensive and defensive, its authors could ever have contemplated, that the federal head should regulate the domestic industry of a widely extended country; distinguished above all others, for the diversity of interests, pursuits and resources in its various sections. It was this acknowledged diversity, that caused the arrangement of a conjoint and separate exercise of the sovereign authority; the one to regulate external concerns, and the other to have absolute control “over the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the States.”

It is the striking characteristic in the operation of a simple and consolidated government, that it protects Manufactures, Agriculture, or any other branch of the public industry—that it can establish corporations, or make Roads and Canals, and patronize learning, and the arts. But it would be difficult to shew, that such was the government, which the sages of the Convention designed for the States. All these powers were proposed to be given to Congress, and they were proposed by that party in the Convention, who desired a *firm National Government*. The Convention having decided, on the *federal* form, in exclusion of the national, all these propositions were rejected; and yet we have lived to see an American Congress who can hold no power except by express grant, as fully in the exercise of these powers, as if they were part and parcel of their expressly delegated authority. Under a pretence of regulating Commerce, they would virtually prohibit it. Were this regulation of Commerce resorted to, as a means of Coercing foreign nations to a fair reciprocity in their intercourse with us, or for some other *bona fide* commercial purpose, as has been justly said by our Legislature, the Tariff acts would be Constitutional. But none of these acts have been passed as countervailing or *retaliatory* measures, for restrictions placed on our Commerce by foreign nations. Whilst other nations seem disposed to relax in their restraints upon trade, our Congress seems absolutely bent upon the interdiction of those articles of Merchandize, which are exchangeable for the products of Southern labor, thus causing the principal burthen of taxation to fall upon this portion of the Union, and by depriving us of our accustomed Markets, to impoverish our whole

Southern country. In the same manner, and under the pretence of promoting the Internal Improvement of the States, and for other equally unjustifiable and unconstitutional purposes, Congress is in the constant habit of violating those fundamental principles of the Constitution, on which alone can rest the prosperity of the States, and the durability of the Union.

It is in vain to imagine, that with a people who have struggled for freedom, and know its inestimable value, such a state of affairs can be endured longer than there is a well founded hope, that reason and justice will resume their empire in the common council of the confederacy. That hope having expired with the last session of Congress, by the present Tariff Act, distinctly and fully recognizing as the permanent policy of the country, the odious principle of protection, it occurs to us that there is but one course for the State to pursue. That course, fellow-citizens, is RESISTANCE. Not *physical*, but MORAL resistance—not resistance in an angry or irritated feeling, but resistance by such counter-legislation, which, whilst it shall evince to the world that our measures are built upon the necessity of tendering to Congress an amicable issue, to try a doubtful question, between friends and neighbors, shall at the same time secure us in the enjoyment of our rights and privileges. It matters not, fellow-citizens by what name this counter-legislation shall be designated—call it Nullification, State interposition, State veto, or by whatever other name you please, still if it be but resistance to an oppressive measure, it is the course which duty, patriotism and self-preservation prescribes. If we are asked, upon what ground we place the right to resist a particular law of Congress and yet regard ourselves as a constituent member of the Union, we answer—the ground of the COMPACT. We do not choose in a case of this kind to recur to what are called our natural rights, or the right of revolution. We claim to nullify by a more imposing title. We claim it as a CONSTITUTIONAL right, not meaning as some have imagined, that we *derive* the right from the Constitution, for derivative rights can only belong to the *functionaries* of the high contracting parties to the Constitution, but we claim to exercise it as one of the PARTIES to the compact, and as consistent with its letter, its genius and its spirit, it being distinctly understood at the time of ratifying the Constitution, that the exercise of all sovereign rights not agreed to be had conjointly, were to be exerted separately by the States. Though it be true, that the provision in favor of what we call the reserved rights of the States was not necessary to secure to the States such reserved rights, yet the mere circumstance of its insertion in the instrument, makes it as clear a *Constitutional* provision, as that of the power of Congress to raise armies or to declare war. Any exercise of a right in conformity with a Constitutional provision, we conceive to be a *Constitutional* right, whether it be founded on an express grant of the right, or be included in a general reservation of undefined powers. The Constitution being the supreme law, and instrument in which a distribution of powers is made between the Federal Government and the States, it is incumbent on the authorities of each Government

so to shape their legislation as not to overstep the boundaries assigned to them. No act can therefore be done by either Government, which for its *validity* can be referred to any other test than the STANDARD OF THE CONSTITUTION. If a State Government passes an act, defining and punishing a burglary, or a law abolishing the rights of primogeniture, it is more correct to say, that she is in the exercise of her *Constitutional*, than of her *natural* rights, because it is an express *Constitutional* provision, that she should exercise all her sovereign rights not already entrusted to the common functionary of the parties. As it is impossible then that any act can be passed by either Government, which if disputed must not be referred to the Constitution as the supreme law of the parties, so a right is Constitutional or unconstitutional, as it shall be found to comport with or to be repugnant to the terms or the spirit of that instrument. There is not therefore a sovereign or a natural right which South Carolina can lawfully exercise in conformity with her engagements, which is not stipulated for in the tenth amendment to the Constitution. All such rights stipulated for, must be Constitutional. To regard them otherwise, would be a perversion of terms.

That Nullification under our reserved rights was regarded as Constitutional by the Virginia resolutions of 1798, is clear from the exposition of them by the celebrated report, drawn by Mr. Madison. In defending the third of these resolutions, which assert the doctrine of State interposition and protection, the committee say, "that they have *scanned* it, not merely with a strict, *but with a severe eye*, and they feel confidence in pronouncing, that in its *just and fair construction*, it is unexceptionably *true in its several positions*, as well as CONSTITUTIONAL and conclusive in its *inferences*." What were the positions of the third resolution. 1st. That the powers of the Federal Government were limited to the plain sense of the instrument constituting the compact. 2d. That in case of a deliberate, palpable and dangerous infraction of the compact, the State has the right to interpose, &c. Now what is the inference? It is, that "they are in duty bound to arrest the progress of the evil, by maintaining within their RESPECTIVE limits, the authorities, rights and liberties appertaining to them." This inference, says the report, is "CONSTITUTIONAL and conclusive." The same doctrine was as distinctly affirmed by the Virginia Assembly in their resolutions adopting the report. They say, "that having fully and accurately examined and reconsidered these resolutions, they find it to be their indispensable duty to ADHERE TO THE SAME, as founded in truth, AS CONSONANT WITH THE CONSTITUTION, and as CONDUCTIVE TO ITS PRESERVATION."

We are aware that it has been recently maintained, that by the State interposition referred to in this third resolution, the Virginia Assembly had allusion to the natural right, and Mr. Madison himself has been brought forward to give a construction to this resolution contrary to the most obvious import of the terms. Be it so. Then, if the State interposition here spoken of be a natural right, it

is a right which the Virginia Assembly have pronounced "consonant with the Constitution, and as conducive to its preservation." Or in other words, that without the exercise of this natural sovereign right of interposition, the Constitution cannot be preserved. There is no incongruity in this. It is quite competent for two monarchs to stipulate in a treaty for that right, which independent of the treaty would be a natural right, as if a power were conferred by the treaty on the citizens of either prince to capture, adjudge and execute all subjects of the other engaged in piracy on the high seas. It certainly would be more proper to call such a right a *Conventional* right, than a natural right, though it be both. Several of the State Constitutions furnish instances of natural rights being secured by a constitutional provision. Even in the instrument we are now considering, there is a distinct affirmation in terms of a natural right of sovereignty: such as the sovereign right of a State to keep troops and ships of war in a certain emergency, or the sovereign right of a State to lay import and export duties, for the purpose of executing its inspection laws. In these cases, a natural right is also a constitutional right, contrary to the definition of those who maintain that no right is properly constitutional which is a sovereign right—because constitutional rights are derivative rights exercised by functionaries. That reasoning would be indeed strange, which would place a natural reserved sovereign right, expressed in terms upon a better footing, than all that mass of residuary power included in the general reservation of the tenth amendment. It would be to create a distinction without a difference. The reserved rights, though undefined, are easily ascertained. Any particular right not found in the enumerated powers of Congress, of course belongs to the States.

The right to nullify is universally admitted to be a natural or sovereign right. The natural rights of the States are also admitted to be their reserved rights. If they are reserved, they must be constitutional, because the Constitution being an agreement to arrange the mode by which the States shall exercise their sovereignty, expressly stipulates for the exercise of these powers in all cases not enumerated. To some it may be unimportant upon what basis we place the right of a State to protect its citizens, as counter-legislation would be the beginning of resistance in either case; others may, perhaps, justly say, that the whole controversy is resolvable into a dispute as to what is, or is not, the proper definition of a constitutional right. We, however, think it of infinite importance, in urging the right of nullification, to regard it as a *Constitutional*, rather than as a natural remedy, because a Constitutional proceeding is calculated to give it a pacific course and a higher recommendation. The characteristic, in fact, of the American Constitutions in general, is, that they sanctify the fundamental principles of the American Revolution. Whilst other nations have to resort to the law of nature, and by force to drive despots from their thrones, thus incurring what amongst them is odiously termed the guilt of rebellion, we here have the incalculable advantage of a thorough understanding amongst all classes, that it is the right, as well as the duty,

of a free people, to recur when necessary to their sovereign rights to resist oppression. Such a sentiment as this becoming familiar to the public mind, acquires prodigious strength, when its spirit is seen to pervade a written Constitution, and prevents rather than accelerates opportunities for an unnecessary recurrence to revolutionary movements. Under such a structure of the public sentiment, when the voice of a sovereign State shall be spoken, "it will be heard in a tone, which virtuous governors will *obey*, and tyrannical ones shall *DREAD*." Nothing can more reconcile Nullification to our citizens than to know, that if we are not proceeding according to the forms of the Constitution, we are nevertheless adhering to its *spirit*. The convention which framed the Constitution could not agree upon any mode of settling a dispute like the present. The case was therefore left unprovided for, under the conviction, no doubt, as is admitted by Mr. Hamilton in "The Federalist," that if the Federal Government should oppress the States, the State Governments would be ready to check it by virtue of their own inherent sovereign powers. "It may safely be received as an *AXIOM* in our *political system*, (says Mr. Hamilton,) that the *State Governments will, in all possible contingencies*, afford *COMPLETE SECURITY* against invasion of the public liberty by the *national authority*. *Projects of usurpation* cannot be *masked under pretences* so likely to escape the penetration of *select bodies* of men, as of the people at large. The Legislatures will have better means of information. They can discover the danger at a distance; and, *possessing all the organs of CIVIL POWER*, and the confidence of the people, they can at once adopt a *REGULAR PLAN OF OPPOSITION*, in which they can *combine all the resources of the community*."

That measure cannot be revolutionary, which is adopted, not with a view to resort to force, but by some decisive measures to call the attention of the co-States to a disputed question in such a form, as to compel them to decide what are or are not the rights of the States, in a case of a palpable and dangerous infraction of those fundamental principles of liberty in which they all have an interest.

In the exercise of the right of nullification, we are not unmindful of the many objections which have been urged against it. That it may embarrass the present majority in Congress, who are fatally bent upon building the sectional interests of their constituents, upon the ruin of our commerce, we can readily imagine: but these embarrassments, on examination, will be found to proceed rather from an unwillingness on their part to adjust the controversy on principles of reason and justice, than from any real difficulty existing in the Constitution. The provisions of the Constitution are ample for taking the sense of the States on a question, more important than any which has occurred since the formation of the Government. But if the spirit of justice departs from the councils, to which we have a right to look up as the guardians of the public liberty and the public peace, no provisions of human wisdom can avail. We have heard much of the danger of suffering one State to impede the operations of twenty-three States: but it must be obvious to every considerate man, that the danger can only exist

where a State is wrong. If the people of any one State are *right* in the principles for which they contend, it is desirable that they should impede the operations of Congress, until the sentiments of its co-States shall be had. A higher eulogy could not be bestowed upon our system, than the power of resorting to some conservative principle, that shall stay a disruption of the league. It is no argument to say that a State may have no grounds on which to place herself upon her sovereign rights. This is a possible, but by no means a probable case. Experience has given us a most instructive lesson on this very subject; it has taught us that, the danger is not that a State may resort to her sovereign rights too often, but that it will not avail herself of them when necessary. Look, fellow-citizens, to our State: for ten years we have petitioned and remonstrated against the unconstitutionality of the Tariff Acts, and though the conviction has been universal that the effects of the system would be ruinous to our interests, yet the difficulty has been great, to bring the people to the resisting point.

And so with other objections. It has been maintained by us, that according to the philosophy of the government, and the true spirit of the compact, it becomes Congress in all emergencies like the present, to solicit from the States, the call of a Convention. That upon such a convocation, it should be incumbent on the States claiming the doubtful power, to propose an amendment to the Constitution, giving the doubtful power, and on failure to obtain it by a consent of three-fourths of all the States, to regard the power as never having been intended to be given. We must not be understood to say, that this was matter even of implied stipulation, at the formation of the compact. The Constitution is designedly silent on the subject, on account of the extreme difficulty in the minds of its framers of appointing a mode of adjusting these differences. This difficulty we now discover was imaginary. It had its source in apprehensions, which an experience of upwards of forty years has proved to be without the shadow of a foundation. Many of the sages of that day, were dissatisfied with their work for a reason, which is the very opposite of the truth. They feared, not that the General Government would encroach upon the rights of the States, but that the States would perpetually be disposed to pass their boundaries of power, and finally destroy the confederation. Had they been blessed with the experience which we have acquired, there could have been no objection to trusting the States, who created the Government, and who would not fully embarrass it, with a veto under certain modifications. It seems but reasonable, that a *disputed* power, which it would have required three fourths of the States to *add* to the Constitution, ought not to be insisted on by a majority in Congress, as impliedly conferred, if more than one fourth should object to it. To deny this, would be to decide finally the validity of a power by a positive majority of the people at large, instead of a concurring majority of the States. There is, it is true, one objection, and only one to this view, and that is, that under this theory, a majority little beyond the three-fourths, as for instance seven States out of twenty-

four, might deprive Congress of powers which have been expressly delegated. The answer to this is, that it would be a very extreme case for a single State to claim the resumption of a power, which it had clearly delegated in *positive* terms. But it seems almost beyond the range of possibility, that six other States should be found to sustain a nullifying State in such a pretension. Should such a case ever occur, as one-fourth and upwards of the States resolving to break their pledges, without the slightest pretence, it would show, that it was time to break the league. If a spirit of friendship and fair dealing, cannot bind together the members of this Union, the sooner it is dissolved the better. So that this objection is rather nominal, than substantial. But the evil of this objection is, that whilst its admission would relieve us from an imaginary peril, we should be plunged into that certain danger of an unrestricted liberty of Congress to give us instead of a confederated government, a government without any other limitation upon its power than the will of a majority.

Other objections have been urged against nullification. It is said, that the President or Congress might employ the military and naval force of the United States to reduce the nullifying State into obedience and thus produce a civil dissension amongst the members of the confederacy. We do not deem it necessary in a community, so conversant with this part of the subject as that of South Carolina, to recapitulate the arguments which have been urged against such an improbable course, both for the want of power, and on the ground of expediency. But we cannot pass over one view, which we think sufficient to quiet all apprehension on that score. We live in an age of reason and intellect. The idea of using force on an occasion of this kind, is utterly at variance with the genius and spirit of the American people. In truth, it is becoming repugnant even to the genius and spirit of the governments of the old world. We have lately seen in England one of the greatest reforms achieved, which her history records; a reform which her wisest statesmen twenty years ago, would have predicted could not be accomplished without civil war, brought about about by a bloodless revolution. The cause is manifest. Not only are the people every where better informed, but such is the influence which public opinion exerts over constituted authorities, that the rulers of this earth are more swayed by reason and justice than formerly. Under such evident indications of the march of mind and intellect, it would be to pay but a poor compliment to the people of these States, to imagine, that a measure taken by a Sovereign State, with the most perfect good feeling to her confederates, and to the perpetuity of the Union, and with no other view than to force upon its members, the consideration of a most important constitutional question, should terminate otherwise than peaceably.

Fellow-Citizens, it is our honest and firm belief, that nullification will preserve, and not destroy this Union. But we should regret to conceal from you that if Congress should not be animated with a patriotic and liberal feeling in this conjuncture, they can give to



this controversy what issue they please. Admit then that there is risk of a serious conflict with the Federal government. We know no better way to avoid the chance of hostile measures in our opponents, than to evince a readiness to meet danger, come from what quarter it will. We should think that the American Revolution was indeed to little purpose, if a consideration of this kind were to deter our people from asserting their sovereign rights. That revolution it is well known, was not entered into by our Southern ancestors from any actual oppression, which the people suffered. It was a contest waged for PRINCIPLE, emphatically for principle. The calamities of revolution, strife and civil war, were fairly presented to the illustrious patriots of those times, which tried the souls of men. The alternative was either to remain dependent colonies in hopeless servitude, or to become free, sovereign and independent States. To attain such a distinguished rank among the nations of the earth, there was but one path, and that the path of glory—the crowning glory of being accounted worthy of all suffering, and of embracing all the calamities of a protracted war abroad, and of domestic evils at home, rather than to surrender their liberties. The result of their labors is known to the world, through the flood of light which that revolution has shed upon the science of government, and the rights of man—in the “LESSON it has taught the oppressor, and in the EXAMPLE it has afforded to the oppressed”—in the invigoration of the spirit of freedom every where, and in the amelioration it is producing in the social order of mankind.

Inestimable are the blessings of that well regulated freedom, which permits man to direct his labors and his enterprize to the pursuit or branch of industry to which he conceives nature has qualified him, unmolested by avarice enthroned in power. Such was the freedom for which South Carolina struggled when a dependant colony. Such is the freedom of which she once tasted as the first fruit of that revolutionary triumph which she assisted to achieve. Such is the freedom she reserved to herself on entering into the league. Such is the freedom of which she has been deprived, and to which she must be restored, if her commerce be worth preserving, or the spirit of her Laurens and her Gadsden has not fled forever from our bosoms. It is in vain to tell South Carolina that she can look to any administration of the federal government for the protection of her sovereign rights, or the redress of her sovereign wrongs. Where the fountain is so polluted, it is not to be expected that the stream will again be pure. The protection to which in all representative governments the people have been accustomed to look, to wit, the responsibility of the governors to the governed, has proved nerveless and illusory—under such a system, nothing but a radical reform in our political institutions can preserve this union. It is full time that we should know what rights we have under the federal constitution, and more especially ought we to know whether we are to live under a consolidated government, or a confederacy of States—whether the States be sovereign or their local Legislatures be mere corporations. A FRESH UNDER-

**STANDING OF THE BARGAIN** we deem absolutely **NECESSARY**. **NO** mode can be devised by which a dispute can be referred to the source of all power, but by some one State taking the lead in the great enterprize of reform. Till some one Southern State tenders to the federal government an issue, it will continue to have its "appetite increased by what it feeds on." History admonishes us that rulers never have the forecast to substitute in good time reform for revolution. They forget that it is always more desirable that the just claims of the governed should break in on them "through well contrived and well disposed windows, not through flaws and breaches, through the yawning chasms of their own ruin." One State must, under the awful prospects before us, throw herself into the breach in this great struggle for constitutional freedom.—There is no other mode of awakening the attention of the co-States to grievances which if suffered to accumulate must dismember the union. It has fallen to our lot fellow-citizens first to quit our trenches. Let us go on to the assault with cheerful hearts and undaunted minds.

Fellow-citizens, the die is now cast. We have solemnly resolved on the course which it becomes our beloved State to pursue—we have resolved that until these abuses shall be reformed, **NO MORE TAXES SHALL BE PAID HERE**. "Millions for defence, but not a cent for tribute." And now we call upon our citizens, native and adopted, to prepare for the crisis, and to meet it as becomes men and freemen. We call upon all classes and all parties to forget their former differences, and to unite in a solemn determination never to abandon this contest until such a change be effected in the councils of the nation, that all the citizens of this confederacy shall participate equally in the benefits and the burdens of the government. To this solemn duty we now invoke you in the name of all that is sacred and valuable to man. We invoke you in the name of that **LIBERTY** which has been acquired by you from an illustrious ancestry and which it is your duty to transmit unimpaired to the most distant generations. We invoke you in the name of that **CONSTITUTION** which you profess to venerate, and of that **UNION** which you are all desirous to perpetuate. By the reverence you bear to these your institutions—by all the love you bear to liberty—by the detestation you have for servitude—by all the abiding memorials of your past glories—by the proud association of your exalted and your common triumphs in the first and greatest of revolutions—by the force of all those sublime truths which that event has inculcated amongst the nations—by the noble flame of republican enthusiasm which warms your bosoms, we conjure you in this mighty struggle to give your hearts and souls and minds to your injured and oppressed state, and to support her cause publicly and privately, with your opinions, your prayers and your actions. If appeals such as these prove unavailing, we then **COMMAND YOUR OBEDIENCE** to the laws and the authorities of the State by a title which none can gainsay. We demand it by that allegiance, which is reciprocal, with the protection you have received from the State. We admit of no obedience to any

authority, which shall conflict with that primary allegiance, which every citizen owes to the State of his birth or his adoption. There is not, nor has there ever been "any *direct* or *immediate* allegiance between the citizens of South Carolina and the Federal Government. The relation between them is through the State." South Carolina having entered into the Constitutional compact, as a separate, independent, political community, as has already been stated, has the right to declare an unconstitutional act of Congress, null and void—after her sovereign declaration that the act shall not be enforced within her limits, "such a declaration is obligatory on her citizens. As far as its citizens are concerned, the clear right of the State is to declare the extent of the obligation." This declaration once made, the citizen has no course, but TO OBEY. If he refuses obedience, so as to bring himself under the displeasure of his only and lawful sovereign, and within the severe pains and penalties, which by her high sovereign power, the Legislature, will not fail to provide in her self-defence, the fault, and the folly must be his own.

And now, fellow-citizens, having discharged the solemn duty, to which we have been summoned, in a crisis, big with the most important results to the liberties, peace, safety, and happiness of this once harmonious but now distracted confederacy, we commend our cause to that great disposer of events, who (if he has not already for some inscrutable purposes of his own, decreed otherwise) will smile on the efforts of truth and justice. We know that "unless the Lord keepeth the city, the watchman waketh but in vain;" but relying, as we do, in this controversy, on the purity of our *motives* and the honor of our *ends*, we make this appeal with all the confidence, which in times of trial and difficulty, ought to inspire the breast of the patriot and the christian. Fellow-citizens, DO YOUR DUTY TO YOUR COUNTRY AND LEAVE THE CONSEQUENCES TO GOD.

## ADDRESS

**To the People of Massachusetts, Virginia, New-York, Pennsylvania, North Carolina, Maryland, Connecticut, Vermont, New-Hampshire, Maine, New-Jersey, Georgia, Delaware, Rhode Island, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama and Missouri.**

We, the people of South Carolina, assembled in Convention, have solemnly and deliberately declared, in our paramount sovereign capacity, that the act of Congress approved the 19th day of May, 1828, and the act approve the 14th July, 1832, altering and amending the several acts imposing duties on imports, are unconstitutional, and therefore, absolutely void, and of no binding force within the limits of this State; and for the purpose of carrying this declaration into full and complete effect, we have invested the Legislature with ample powers, and made it the duty of all the functionaries and all the citizens of the State, on their allegiance, to co-operate in enforcing the aforesaid declaration.

In resorting to this important measure, to which we have been impelled by the most sacred of all the duties which a free people owe either to the memory of their ancestors or to the claims of their posterity, we feel that it is due to the intimate political relation which exists between South Carolina and the other States of this confederacy, that we should present a clear and distinct exposition of the principles on which we have acted, and of the causes by which we have been reluctantly constrained to assume this attitude of sovereign resistance in relation to the usurpations of the Federal Government.

For this purpose it will be necessary to state briefly, what we conceive to be the relation created by the federal Constitution, between the States and the general government; and also what we conceive to be the true character and practical operation of the system of protecting duties, as it effects our rights, our interests and our liberties.

We hold, then, that on their separation from the Crown of Great Britain, the several Colonies became free and independent States, each enjoying the separate and independent right of self government; and that no authority can be exercised over them or within their limits, but by their consent, respectively given as States. It is equally true, that the Constitution of the United States is a compact formed between the several States, acting as sovereign communities; that the government created by it is a joint agency of the States, appointed to execute the powers enumerated and granted by that instrument; that all its acts not intentionally authorized,

are of themselves essentially null and void, and that the States have the right, in the same sovereign capacity in which they adopted the federal Constitution, to pronounce, in the last resort, authoritative judgment on the usurpations of the federal government, and to adopt such measures as they may deem necessary and expedient to arrest the operation of the unconstitutional acts of that government, within their respective limits. Such we deem to be the inherent rights of the States—rights, in the very nature of things, absolutely inseparable from sovereignty. Nor is the duty of a State, to arrest an unconstitutional and oppressive act of the federal government less imperative, than the right is incontestible. Each State, by ratifying the federal Constitution, and becoming a member of the confederacy, contracted an obligation to “protect and defend” that instrument, as well by resisting the usurpations of the federal government, as by sustaining that government in the exercise of the powers actually conferred upon it. And the obligation of the oath which is imposed, under the Constitution, on every functionary of the States, to “preserve, protect, and defend” the federal Constitution, as clearly comprehends the duty of protecting and defending it against the usurpations of the federal government, as that of protecting and defending it against violation in any other form or from any other quarter.

It is true that in ratifying the federal Constitution, the States placed a large and important portion of the rights of their citizens under the joint protection of all the States, with a view to their more effectual security; but it is not less true that they reserved a portion still larger and not less important under their own immediate guardianship, and in relation to which their original obligation to protect their citizens, from whatever quarter assailed, remains unchanged and undiminished.

But clear and undoubted as we regard the right, and sacred as we regard the duty of the States to interpose their sovereign power for the purpose of protecting their citizens from the unconstitutional and oppressive acts of the Federal Government, yet we are as clearly of the opinion that nothing short of that high moral and political necessity, which results from acts of usurpation, subversive of the rights and liberties of the people, should induce a member of this confederacy to resort to this interposition. Such, however, is the melancholy and painful necessity under which we have declared the acts of Congress imposing protecting duties, null and void, within the limits of South Carolina. The spirit and the principles which animated your ancestors and ours in the councils and in the fields of their common glory, forbid us to submit any longer to a system of Legislation, now become the established policy of the Federal Government, by which we are reduced to a condition of colonial vassallage, in all its aspects more oppressive and intolerable than that from which our common ancestors relieved themselves by the war of the revolution. There is no right which enters more essentially into a just conception of liberty, than that of the free and unrestricted use of the productions of our industry. This clearly involves the right of carrying the productions of that

industry wherever they can be most advantageously exchanged, whether in foreign or domestic markets. South Carolina produces, almost exclusively, agricultural staples, which derive their principal value from the demand for them in foreign countries.— Under these circumstances, her natural markets are abroad; and restrictive duties imposed upon her intercourse with those markets, diminish the exchangeable value of her productions very nearly to the full extent of those duties.

Under a system of free trade, the aggregate crop of South Carolina could be exchanged for a larger quantity of manufactures, by at least one-third, than it can be now exchanged for under the protecting system. It is no less evident, that the value of that crop is diminished by the protecting system very nearly, if not precisely, to the extent that the aggregate quantity of manufactures which can be obtained for it, is diminished. It is, indeed, strictly and philosophically true, that the quantity of consumable commodities which can be obtained for the cotton and rice annually produced by the industry of the State, is the precise measure of their aggregate value. But for the prevalent and habitual error of confounding the money price with the exchangeable value of our agricultural staples, these propositions would be regarded as self-evident. If the protecting duties were repealed, one hundred bales of cotton or one hundred barrels of rice would purchase as large a quantity of manufactures, as one hundred and fifty will now purchase. The annual income of the State, its means of purchasing and consuming the necessities and comforts and luxuries of life, would be increased in a corresponding degree.

Almost the entire cotton crop of South Carolina, amounting annually to more than six millions of dollars, is ultimately exchanged either for foreign manufactures, subject to protecting duties, or for similar domestic manufactures. The *natural* value of that crop would be all the manufactures which we could obtain for it, under a system of unrestricted commerce. The *artificial* value, produced by the unjust and unconstitutional Legislation of Congress, is only such part of those manufactures as will remain after paying a duty of fifty per cent to the Government, or, to speak with more precision, to Northern manufacturers. To make this obvious to the humblest comprehension, let it be supposed that the whole of the present crop should be exchanged, by the planters themselves, for those foreign manufactures, for which it is destined, by the inevitable course of trade; to be ultimately exchanged, either by themselves or their agents. Let it be also assumed, in conformity with the facts of the case, that New-Jersey, for example, produces, of the very same description of manufactures, a quantity equal to that which is purchased by the cotton crop of South Carolina. We have, then, two States of the same confederacy, bound to bear an equal share of the burthens, and entitled to enjoy an equal share of the benefits of the common government, with precisely the same quantity of productions, of the same quality and kind, produced by their lawful industry. We appeal to your candor, and to your sense of justice, to say whether South Carolina has not a title as

sacred and indefeasible to the full and undiminished enjoyment of these productions of her industry, acquired by the combined operations of agriculture and commerce, as New-Jersey can have to the like enjoyment of similar productions of her industry, acquired by the process of manufacture? Upon no principle of Constitutional right—upon no principle of human reason or justice, can any discrimination be drawn between the titles of South Carolina and New-Jersey to these productions of their capital and labor. Yet what is the discrimination actually made by the unjust, unconstitutional and partial Legislation of Congress? A duty, on an average, of fifty per cent is imposed upon the productions of South Carolina, while no duty at all is imposed upon the similar productions of New-Jersey! The inevitable result is, that the manufactures thus lawfully acquired by the honest industry of South Carolina are worth, annually, three millions of dollars less to her citizens than the very same quantity of the same description of manufactures are worth to the citizens of New-Jersey—a difference of value produced exclusively by the operation of the protecting system.

No ingenuity can either evade or refute this proposition. The very axioms of geometry are not more self-evident. For even if the planters of South Carolina, in the case supposed, were to sell and not consume these productions of their industry, it is plain that they could obtain no higher price for them, after paying duties to the amount of \$3,000,000, than the manufacturers of New-Jersey would obtain for the same quantity of the same kind of manufactures, without paying any duty at all.

This single view of the subject exhibits the enormous inequality and injustice of the protecting system in such a light, that we feel the most consoling confidence that we shall be fully justified by the impartial judgment of posterity, whatever may be the issue of this unhappy controversy. We confidently appeal to our confederate States, and to the whole world, to decide whether the annals of human legislation furnish a parallel instance of injustice and oppression perpetrated under the forms of a free government. However it may be disguised by the complexity of the process by which it is effected, it is nothing less than the monstrous outrage of taking three millions of dollars annually from the value of the productions of South Carolina, and transferring it to the people of other and distant communities. No human government can rightfully exercise such a power. It violates the eternal principles of natural justice, and converts the government into a mere instrument of legislative plunder. Of all the governments on the face of the earth, the Federal Government has the least shadow of a constitutional right to exercise such a power. It was created principally, and almost exclusively, for the purpose of protecting, improving, and extending that very commerce which, for the last ten years, all its powers have been most unnaturally and unrighteously perverted to cripple and destroy. The power to "regulate commerce with foreign nations," was granted obviously for the preservation of that commerce. The most important of all the duties which the Federal Government owes to South Carolina, under the compact of Union, is

the protection and defence of her foreign commerce against all the enemies by whom it may be assailed. And in what manner has this duty been discharged? All the powers of the earth, by their commercial restrictions, and all the pirates of the ocean, by their lawless violence, could not have done so much to destroy our commerce as has been done by that very Government to which its guardianship has been committed by the Federal Constitution. The commerce of South Carolina consists in exchanging the staple productions of her soil for the manufactures of Europe. It is a lawful commerce. It violates the rights of no class of people in any portion of the confederacy. It is this very commerce, therefore, which the Constitution has enjoined it upon Congress to encourage, protect, and defend by such regulations as may be necessary to accomplish that object. But instead of that protection, which is the only tie of our allegiance as individual citizens to the Federal Government, we have seen a gigantic system of restrictions gradually reared up, and at length brought to a fatal maturity, of which it is the avowed object, and must be the inevitable result, to sweep our commerce from the great highway of nations, and cover our land with poverty and ruin.

Even the States most deeply interested in the maintenance of the protecting system, will admit that it is the interest of South Carolina to carry on a commerce of exchanges with foreign countries, free from restrictions, prohibitory burthens or incumbrances of any kind. We feel, and we know, that the vital interests of the State are involved in such a commerce. It would be a downright insult to our understandings, to tell us that our interests are not injured, deeply injured, by those prohibitory duties, intended and calculated to prevent us from obtaining the cheap manufactures of foreign countries for our staples, and to compel us to receive for them the dear manufactures of our domestic establishments, or pay the penalty of the protecting duties for daring to exercise one of the most sacred of our natural rights. What right, then, human or divine, have the manufacturing States—for we regard the Federal Government as a mere instrument in their hands—to prohibit South Carolina, directly or indirectly, from going to her natural markets, and exchanging the rich productions of her soil, without restriction or incumbrance, for such foreign articles as will most conduce to the wealth and prosperity of her citizens? It will not surely be pretended—for truth and decency equally forbid the allegation—that in exchanging our productions for the cheaper manufactures of Europe, we violate any right of the domestic manufacturers, however gratifying it might be to them if we would purchase their inferior productions at higher prices.

Upon what principle, then, can the State of South Carolina be called upon to submit to a system, which excludes her from her natural markets, and the manifold benefits of that enriching commerce which a kind and beneficent Providence has provided to connect her with the family of nations by the bonds of mutual interest? But one answer can be given to this question. It is in vain that we attempt to disguise the fact, mortifying as it must be, that



the principle by which South Carolina is thus excluded, is, in strict propriety of language, and to all rational intents and purposes, a principle of colonial dependence and vassallage, in all respects identical with that which restrained our forefathers from trading with any manufacturing nation of Europe, other than Great Britain. South Carolina now bears the same relation to the manufacturing States of this confederacy, that the Anglo-American colonies bore to the mother country, with the single exception that our burthens are incomparably more oppressive than those of our ancestors. Our time, our pride, and the occasion equally forbid us to trace out the degrading analogy. We leave that to the historian who shall record the judgment which an impartial posterity will pronounce upon the eventful transactions of this day.

It is in vain that we attempt to console ourselves by the empty and unreal mockery of our representation in Congress. As to all those great and vital interests of the State which are affected by the protecting system, it would be better that she had no representation in that body. It serves no other purpose but to conceal the chains which fetter our liberties, under the vain and empty forms of a representative government. In the enactment of the protecting system, the majority of Congress is, in strict propriety of speech, an irresponsible despotism. A very brief analysis will render this clear to every understanding. What then, we ask, is involved in the idea of political responsibility, in the imposition of public burthens? It clearly implies that those who impose the burthens should be responsible to those who bear them. Every representative in Congress should be responsible, not only to his own immediate constituents, but through them, and their common participation in the burthens imposed, to the constituents of every other representative. If in the enactment of a protecting tariff, the majority in Congress imposed upon their own constituents the same burthens which they impose upon the people of South Carolina, that majority would act under all the restraints of political responsibility, and we should have the best security which human wisdom has yet devised against oppressive legislation.

But the fact is precisely the reverse of this. The majority in Congress, in imposing protecting duties, which are utterly destructive of the interests of South Carolina, not only impose no burthens, but actually confer enriching bounties upon their constituents, proportioned to the burthens they impose upon us. Under these circumstances, the principle of representative responsibility, is perverted into a principle of absolute despotism. It is this very tie, binding the majority of Congress to execute the will of their constituents, which makes them our inexorable oppressors. They dare not open their hearts to the sentiments of human justice, or to the feelings of human sympathy. They are tyrants by the very necessity of their position, however elevated may be their principles, in their individual capacities.

The grave question, then, which we have had to determine, as the sovereign power of the State, upon the awful responsibility under which we have acted, is, whether we will voluntarily surren-

der the glorious inheritance, purchased and consecrated by the toils, the sufferings and the blood of an illustrious ancestry, or transmit that inheritance to our posterity, untarnished and undiminished? We could not hesitate in deciding this question. We have, therefore, deliberately and unalterably resolved, that we will no longer submit to a system of oppression, which reduces us to the degrading condition of tributary vassals; and which would reduce our posterity, in a few generations, to a state of poverty and wretchedness, that would stand in melancholy contrast with the beautiful and delightful region, in which the Providence of God has cast our destinies. Having formed this resolution, with a full view of all its bearings, and of all its probable and possible issues, it is due to the gravity of the subject, and the solemnity of the occasion, that we should speak to our confederate brethren in the plain language of frankness and truth. Though we plant ourselves upon the Constitution, [and the immutable principles of justice, and intend to operate exclusively through the civil tribunals and civil functionaries of the State; yet we *will* throw off this oppression, *at every hazard*. We believe our remedy to be essentially peaceful. We believe the Federal Government has no shadow of right or authority to act against a Sovereign State of the Confederacy, in any form; much less to coerce it by military power. But we are aware of the diversities of human opinion, and have seen too many proofs of the infatuation of human power, not to have looked with the most anxious concern to the possibility of a resort to military or naval force on the part of the Federal Government; and in order to obviate the possibility of having the history of this contest stained by a single drop of fraternal blood, we have solemnly and irrevocably resolved that we will regard such a resort as a dissolution of the political ties which connect us with our confederate States, and will forthwith provide for the organization of a new and separate government.

We implore you, and particularly the manufacturing States, not to believe that we have been actuated, in adopting this resolution, by any feeling of resentment or hostility towards them, or by a desire to dissolve the political bonds which have so long united our common destinies. We still cherish that rational devotion to the Union, by which this State has been pre-eminently distinguished in all times past. But that blind and idolatrous devotion which would bow down and worship Oppression and Tyranny, veiled under that consecrated title, if it ever existed among us, has now vanished for ever. CONSTITUTIONAL LIBERTY is the only idol of our political devotion; and, to preserve that, we will not hesitate a single moment to surrender the Union itself, if the sacrifice be necessary. If it had pleased God to cover our eyes with ignorance—if he had not bestowed upon us the understanding to comprehend the enormity of the oppression under which we labor—we might submit to it, without absolute degradation and infamy. But the gifts of Providence cannot be neglected or abused with impunity. A people who deliberately submit to oppression, with a full knowledge that they are oppressed, are fit only to be slaves; and all history proves

that such a people will soon find a master. It is the pre-existing spirit of slavery in the people, that has made tyrants in all ages of the world. No tyrant ever made a slave—no community, however small, having the spirit of freemen, ever yet had a master. The most illustrious of those states which have given to the world examples of human freedom, have occupied territories not larger than some of the districts of South Carolina; while the largest masses of population that were ever united under a common government, have been the abject, spiritless, and degraded slaves of despotic rulers. We sincerely hope, therefore, that no portion of the States of this Confederacy will permit themselves to be deluded into any measures of rashness, by the vain imagination that South Carolina will vindicate her rights and liberties with a less inflexible and unfaltering resolution, with a population of some half a million, than she would do with a population of twenty millions.

It does not belong to Freemen to count the costs, and calculate the hazards of vindicating their rights and defending their liberties; and even if we should stand alone in the worst possible emergency of this great controversy, without the co-operation or encouragement of a single State of the Confederacy, we will march forward with an unfaltering step, until we have accomplished the object of this great enterprise.

Having now presented, for the consideration of the Federal Government and our confederate States, the fixed and final determination of this State in relation to the protecting system, it remains for us to submit a plan of taxation in which we would be willing to acquiesce, in a spirit of liberal concession, provided we are met in due time and in a becoming spirit by the States interested in the protection of manufactures.

We believe that upon every just and equitable principle of taxation, the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties, should be raised exclusively from the unprotected articles, or that whenever a duty is imposed upon protected articles imported, an excise duty of the same rate should be imposed upon all similar articles manufactured in the United States. This would be as near an approach to perfect equality as could possibly be made, in a system of indirect taxation. No substantial reason can be given for subjecting manufactures obtained from abroad in exchange for the productions of South Carolina to the smallest duty, even for revenue, which would not show that similar manufactures made in the United States, should be subject to very same rate of duty. The former, not less than the latter, are, to every rational intent, the productions of domestic industry, and the mode of acquiring the one, is as lawful, and more conducive to the public prosperity, than that of acquiring the other.

But we are willing to make a large offering to preserve the Union; and with a distinct declaration that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, provided that no more revenue be raised than is ne-

cessary to meet the demands of the Government for Constitutional purposes, and provided also that a duty, substantially uniform, be imposed upon all foreign imports,

It is obvious that even under this arrangement, the manufacturing states would have a decided advantage over the planting states. For it is demonstrably evident that, as communities, the manufacturing states would bear no part of the burden of federal taxation, so far as the revenue should be derived from protected articles. The earnestness with which their representatives seek to increase the duties on these articles, is conclusive proof that those duties are bounties, and not burthens, to their constituents. As at least two-thirds of the federal revenue would be raised from protected articles, under the proposed modification of the tariff, the manufacturing states would be entirely exempted from all participation in that proportion of the public burthens.

Under these circumstances we cannot permit ourselves to believe for a moment, that in a crisis marked by such portentous and fearful omens, those states can hesitate in acceding to this arrangement, when they perceive that it will be the means, and possibly the only means, of restoring the broken harmony of this great confederacy. They most assuredly have the strongest of human inducements, aside from all considerations of justice, to adjust this controversy, without pushing it to extremities. This can be accomplished only by the proposed modification of the tariff, or by the call of a general convention of all the States. If South Carolina should be driven out of the Union, all the other planting states, and some of the western states would follow by an almost absolute necessity. Can it be believed that Georgia, Mississippi, Tennessee, and even Kentucky, would continue to pay a tribute of fifty per cent upon their consumption, to the northern states, for the privilege of being united to them, when they could receive all their supplies through the ports of South Carolina, without paying a single cent of tribute?

The separation of South Carolina would inevitably produce a general dissolution of the Union; and as a necessary consequence, the protecting system, with all its pecuniary bounties to the northern states, and its pecuniary burthens upon the southern states, would be utterly overthrown and demolished, involving the ruin of thousands and hundreds of thousands in the manufacturing states.

By these powerful considerations connected with their own pecuniary interests, we beseech them to pause and contemplate the disastrous consequences which will certainly result from an obstinate perseverance on their part, in maintaining the protecting system. With them it is a question merely of pecuniary interest, connected with no shadow of right, and involving no principle of liberty. With us, it is a question involving our most sacred rights; those very rights which our common ancestors left to us as a common inheritance, purchased by their common toils, and consecrated by their blood. It is a question of liberty on the one hand, and slavery on the other. If we submit to this system of unconstitutional oppression, we shall voluntarily sink into slavery and trans-

mit that ignominious interitance to our children. We will not, we can not, we dare not, submit to this degradation, and our resolve is fixed and unalterable, that a protecting tariff shall be no longer enforced within the limits of South Carolina. We stand upon the principles of everlasting justice, and no human power shall drive us from our position.

We have not the slightest apprehension that the General Government will attempt to force this system upon us by military power. We have warned our brethren of the consequences of such an attempt. But if, notwithstanding, such a course of madness should be pursued, we here solemnly declare that this system of oppression shall never prevail in South Carolina, until none but slaves are left to submit to it. We would infinitely prefer that the territory of the State should be the cemetery of freemen than the habitation of slaves. Actuated by these principles, and animated by these sentiments, we will cling to the pillars of the temple of our liberties, and if it must fall, we will perish amidst the ruins.

J. HAMILTON, JR.

*President of the Convention.*

Attest,

ISAAC W. HAYNE, *Clerk.*

**No. 3.**

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**IN SENATE,**

**January 1, 1833.**

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**ANNUAL REPORT**

**Of the Trustees of the State Library.**

The Trustees of the State Library, in obedience to section 4, title 8, chapter 9 of the first part of the Revised Statutes,

**RESPECTFULLY REPORT:**

That the sum remaining in the hands of their Treasurer on the 30th day of September 1831, as will appear from their last report, was ..... \$369 48

There has been paid to their Treasurer by their order, since the close of that account, the annual appropriation from the State Treasury for the year 1832, of . 1,000 00  
And the amount appropriated from the Chancery fund, (1 R. S. 216, § 2,) for the year 1831,..... 300 00

**Making a total of the means of the year, of..... \$1,669 48**

The payments by the Treasurer, and for which he has rendered satisfactory vouchers to the Trustees, since the 30th September 1831, and previous to the 18th December 1832, the time to which this report brings the transactions, have been as follows:

For books, maps, charts, bookbinding, and the lettering, labelling, and entering the books upon the catalogue, ..... \$1,399 51

For cleaning the Library room, new book-cases, and repairs to the room, windows and book-cases, ..... 54 35  

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1,453 86

Leaving in the hands of the Treasurer unexpended, on the 18th day of December above mentioned, the sum of \$215 62  
[S. No. 3.]

The Trustees have extended this report beyond the limits of the fiscal year, because they had sent an order for the importation of a bill of books to be added to the law part of the library, which had not been heard from on the 30th September last, though their arrival was then soon expected. They arrived, and were examined, and the bill was paid on the 6th of December; and as the books were to be, and have been, added to the catalogue accompanying this report, it was thought best to include their cost also in the expenditures now exhibited. This bill, including charges and duties, amounted to ..... \$503 99

Another bill of books has also been imported since the last report, to be added to the other departments of the library, amounting to ..... 316 40

And, in addition to these importations, a valuable purchase of miscellaneous books has been made from a well selected private library, amounting to ..... 172 50

Making in all, ..... \$992 89

And leaving but \$406.62 to have been paid for all ordinary and domestic purchases, including the current reports, the subscriptions to periodical works, the casual selections for all the departments of the library, maps, charts, &c.

The Trustees are not aware that bills, to any considerable amount, are outstanding for any description of expenditure, with the exception of a bill for binding not yet presented; and they are sure that a very few dollars will pay all the claims against the money in their hands, with this exception; but as no bill for book-binding for the library has been presented or paid since the 2d December 1830, and as nearly all the books imported came unbound to save duties, and all the periodical works are delivered in pamphlet, and remain to be bound, this bill will be very considerable. It is believed, however, that the money in hand, and the appropriation from the Chancery fund for the year 1832, not yet drawn, will furnish the means to meet it, and leave a small balance still unexpended.

Their success, during the period covered by this report, in making useful and valuable additions to the Library, has been entirely equal to their expectations; and with the continuance of the same means, they hope in a few years to be able to fill up the collections for all the departments, and especially for that of the law, so as to present

a public library inferior to few, if any, in the country, and one which will do justice to the character of the State, and to the intelligence and liberality of the Legislature.

The whole amount paid out of the Treasury during the fiscal year, commencing 1st October 1831, and ending 30th September 1832, for the contingent expenses of the Library, as appears from the accounts kept in the Comptroller's office, has been \$71.35. A law of 1829, respecting the State Library, (see 3 R. S. fol. 174,) limited the expenses to be so paid for stationary and candles to the sum of fifty dollars. The sum above mentioned has been expended as follows:

For wood, .....	\$46 50
“ candles, .....	\$7 85
“ stationary, .....	17 00
	<hr/>
	24 85

Making the whole sum expended as above, **\$71 35**

The Trustees have the satisfaction to be able to continue the assurance that the duties of the Librarian are faithfully performed; the books are kept in as perfect a state of arrangement as the rooms will permit, and in as perfect a state of preservation as any vigilance can secure; and all reasonable attention is paid to the comfort and convenience of those who have occasion to visit the library.

The catalogue annexed is merely changed from that of the last year, by the addition, in their appropriate places, of the books procured and placed in the library since the last report, as no material improvement in the plan or arrangement of the catalogue has suggested itself to the Trustees since that time. The table of American Reports, arranged in the alphabetical order of the States, and with the additions of the year, is also annexed, marked A; and the usual list of the books added to the library since the last report, is annexed, marked B.

The Rules and Regulations for the government of the Library have not been altered, and accompany this report, marked C.

Having for two years now last past delivered their report, with the catalogue and other papers annexed, to the public printer in advance of the meeting of the Legislature, that it might be put into



the hands of the members at their meeting, and having received from the Legislature no expression of disapprobation of that course, it has been continued in the present instance.

All which is respectfully submitted,

SILAS WRIGHT, JR.

GREENE C. BRONSON,

A. C. FLAGG,

*Trustees of the State Library.*

*Dated Albany, January 1, 1833.*

# CATALOGUE

OF

## BOOKS, MAPS, &c.

BELONGING TO, AND REMAINING IN THE STATE LIBRARY,

JANUARY 1, 1833.

N. B. All the Books enumerated in this Catalogue are bound, and of octavo size, unless otherwise expressly mentioned: Congressional and Legislative Journals will be found arranged under the head of "State Papers;" and Statutes under "Statute Law."

### LAW BOOKS.

#### A.

	<i>Vols.</i>
Abbot on Shipping, .....	1
Abstract of the Revised Statutes, (of New-York,) .....	1
Acton's Reports, (Prize Causes,) .....	2
Adams on Ejectment, see "Tillinghast's Adams on Ejectment."	
Addams' Reports, (Ecclesiastical,) .....	2
Addington's Penal Statutes, (fol.) .....	1
Addison's Reports, (Pennsylvania,) .....	1
Admiralty Decisions, .....	1
Aikens' Reports, (Vermont,) .....	2
Alabama Reports, .....	1
Allen on Prerogative, .....	1
Alleyn's Reports, (fol.) .....	1
Ambler's Reports, .....	1
American Chancery Digest, .....	1
American Digest, .....	5
American Jurist, .....	8
American Law Journal, .....	6
Anderson's Report, (fol.) .....	1
Andrews' Reports, .....	1
Angel on Tide Waters, .....	1
... ".... Water-Courses, .....	1
Anstruther's Reports, (2 vols. in one,) .....	1
Anthon's Nisi Prius Reports, .....	1

	<i>Vols.</i>
Archbold's Civil Pleadings, .....	1
"    Criminal Pleadings, .....	1
"    Forms and Evidence, .....	1
"    "    "    duplicate, .....	1
"    Practical Forms, .....	1
"    Practice, .....	2
Ashmead's Reports, (Pennsylvania,) .....	1
Assize, Book of, see "Book of Assizes."	
Atkinson on Conveyancing, .....	2
Atkyns' Reports, .....	3
Attorney's Companion, .....	1
Azuni's Maritime Law, .....	2

## B.

Backus' Sheriff, .....	2
Bacon's Abridgement, .....	7
Ball and Beatty's Reports, (Irish Chancery,) .....	2
Ballantine on Limitations, .....	1
"    "    "    by Tillinghast, see "Tillinghast's Ballantine on Limitations."	
Barnardiston's Reports, (fol.) .....	1
Barnes' Notes of Cases, .....	2
Barnewell and Alderson's Reports, .....	4
Barton's Suit in Equity, .....	1
Batty's Reports, (King's Bench, Ireland,) .....	1
Bay's Reports, (South-Carolina,) .....	2
Bayley on Bills, .....	1
Beame's Pleas in Equity, .....	1
Beawes' Lex Mercatoria, (4to.) .....	2
Beccaria on Crimes, .....	1
Beck's Medical Jurisprudence, .....	2
Bee's Reports, (U. S. District Court, South-Carolina,) .....	1
Bell's Commentaries on the Laws of Scotland, (4to.) .....	2
Belt's Supplement, see "Vesey Senior's Reports, Supplement."	
Benloe and Dalison's Reports, (fol.) .....	1
Bennett's Master's Office, .....	1
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"    (William) "    .....	2

	<i>Vols.</i>
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"    New Parliamentary Reports,.....	3
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"    Practical Digest, .....	1
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"    Justice, .....	4
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Cases of Equity, .....	2
Cases Tempore Hardwicke, (by Lee,) .....	1
Cases Tempore Hardwicke by Ridgeway, see "Ridgeway's Cases Tempore Hardwicke."	
Cases Tempore Talbot, (by J. G. Williams,).....	1
Catalogue of New Law Books, see "Law Catalogue."	

	<i>Vols.</i>
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Civil Code of Louisiana, see "Statute Law."	
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Code Napoleon, .....	1
Coke on Littleton, (First Institutes,) .....	3
Coke's Institutes, (2d, 3d and 4th,) .....	4
"    Entries, (fol.) .....	1
"    Reports, .....	7
Coleman and Caines' Cases, (New-York,).....	1
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Collinson on Lunacy, .....	2
Comberbach's Reports, (fol.) .....	1
Commercial Code of France, .....	1
Common Law Reports, .....	20
Comstock's Digest, .....	1
Comyn on Contracts, .....	2
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Comyn's Digest, .....	8
"    Reports, .....	2
Conkling's Treatise, .....	1
Connecticut Reports,.....	7
Constable's Guide,.....	1
Constitutional Reports of South-Carolina, .....	2
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Cowen's Digest, .....	1
"    Reports, .....	9

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"    New-Jersey Reports, .....	1
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Cranch's Reports, (Supreme Court U. S.) .....	9
Cresswell's Insolvency Reports, .....	1
Criminal Trials, .....	1
Croke's Reports, (Elizabeth, James and Charles,) .....	3
Crompton's Practice, .....	2
Crompton and Jervis' Reports, .....	1
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Curran's Speeches, .....	2

## D.

Dagge on Criminal Law, .....	3
Dallas' Reports, .....	4
Dane's Abridgement, .....	8
Daniell's Reports, (Exchequer,) .....	1
Danson and Lloyd's Reports, (Mercantile Cases,) .....	1
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Davies' Reports, .....	1
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Debates on the Constitutional Powers of Congress, .....	1
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Dickens' Reports, (Chancery,) .....	2
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Dow's Parliamentary Reports, ....	6
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"    "    "    "    (Magistrate Cases,) .....	4
Dunlap's Practice, .....	2
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## E.

Vols.

East's Pleas of the Crown, .....	2
"    Reports, .....	16
Eden on Injunction, .....	1
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Edwards' Reports, (Admiralty,) .....	1
"    Treatise, .....	1
Equity Draftsman, .....	1
Equity Reports, see "Desaussure's Chancery Reports."	
Espinasse's Nisi Prius, .....	2
"    Reports, (6 vols. bound in 5,) .....	5
Evans' Collection of Statutes, see "Statute Law."	

## F.

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"    Reports, (fol.) .....	1
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Griffith's Law Register, (3d and 4th vols.) .....	2
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**H.**

	Feb.
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" Consistory Reports, .....	2
" Ecclesiastical Reports, .....	2
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" Pleas of the Crown, (fol. Emlyn's edition, 1796,).....	2
" " " " (Wilson's edition, 1800,) .....	2
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" Superior Court Reports, .....	1
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" Reports, (New-Jersey,) .....	7
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" Reports, (Ohio,) ...	3
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Hatsell's Precedents of Proceedings in the House of Commons,	3
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Hawk's Reports, (North-Carolina,).....	4
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Hobart's Reports, (fol.).....	1
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Hutton's Reports, (fol.) .....	1

I.

Ingersoll's Digest, .....	1
Ingraham on Insolvency, .....	1
Institutes of Civil Law of Spain, .....	1



Institutes of Justinian, see "Cooper's Justinian."	<i>Vols.</i>
Institutes of the Laws of Holland, (by Van Der Linden,) ....	1
Institutions Judiciaires, .....	5
Irish Term Reports, .....	1

## J.

Jacob's Law Dictionary, .....	6
"    Reports, (Chancery,) .....	1
Jacob and Walker's Reports, .....	2
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## K.

Kames' Principles of Equity, see "Principles of Equity."	
Keble's Reports, (fol.) .....	3
Keilwey's Reports, (fol.) .....	1
Kelham's Fleta, see "Selden's Fleta."	
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Law Catalogue, .....	1
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Law of Carriers, .....	1

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Lutwyche's Reports, (fol.) .....	2

## M.

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Maddock's Reports, (Chancery,) .....	5
Maddock and Geldart's Reports, (Chancery,) .....	1
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"    on Wills, .....	2
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Russell and Mylne's Reports, (Chancery,) .....	1
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Ryan and Moody's Reports, (Nisi Prius,) .....	2

## S.

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Saunders' Reports, .....	3
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Sayer's Reports, (fol.) .....	1
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Select Cases in Chancery, (fol.) .....	1
Select Cases in Newfoundland, .....	1
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Sheppard's Touchstone, .....	2
Shower's Parliamentary Cases, (fol.) .....	1
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Siderfin's Reports, (fol.) .....	2
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Simons and Stuart's Reports, (Chancery,) .....	2
Skinner's Reports, (fol.) .....	1



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Tyrwhitt's Reports, (Exchequer,) .....	1
Tytler's Military Law, (12mo.) .....	1

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United States Court Rules, .....	1
"    "    Law Journal, .....	1

## V.

Van Der Linden's Institutes, see "Institutes of the Laws of Holland."	
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"    "    "    Supplement to, (by Hovenden,) ....	2
Vesey Junior and Beame's Reports, (Chancery, 3 vols. bound in 2,) .....	2
Vesey Senior's Reports, (Chancery,).....	2
"    "    "    Supplement to, (by Belt,) .....	1
Viner's Abridgement, .....	24
"    "    Supplement to, .....	4
Virginia Cases, (1st vol. by Brockenbrough and Holmes, 2d vol. by Brockenbrough,) .....	2
Virginia Reports, (Gilmer's,) .....	1

## W.

Ward's Law of Nations, .....	2
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"    Circuit Court Reports, (3d Circuit of the United States,) .....	4
Watson on Partnership, .....	1
Wendell's Reports, (New-York,) .....	8
Wentworth's Pleadings, .....	10
"    "    Index to, .....	1
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Wheaton on Captures, .....	1
Wheaton's Digest, .....	1
"    Reports, (Supreme Court of the United States,)...	12

	<i>Vols.</i>
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Wheeler's Criminal Cases, .....	3
Wightwick's Reports, (Exchequer,) .....	1
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Wooddeson's Lectures on the Laws of England, .... ,.....	3
Woodfall's Landlord and Tenant, .....	1
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Woolrych's Commercial Law,.....	1
"    Law of Ways, .....	1

## Y.

Year Books, (fol.) .....	10
Yeates' Reports, (Pennsylvania,) .....	4
Yelverton's Reports, .....	1
Younge and Jervis' Reports, (Exchequer,) .....	3



(A.)

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REPORTS OF THE COURTS OF THE UNITED STATES.

*Reports of the Supreme Court.*

	<i>Vols.</i>
Cranch's Reports, .....	9
Wheaton's Reports, ....	12
Peters' Reports, .....	6

*Reports of the Circuit Courts.*

Gallison's, (1st Circuit,)	2
Mason's, { " " }	4
Paine's, { 2d " }	1
Peters' { 3d " }	1
Washington's, { " " }	4

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Coxe's Digest, .....	1

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Alabama Reports, (by Minor,) .....	1
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Kirby's " .....	1
Day's " .....	5
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(C.)

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**No. 4.**

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**IN SENATE,**

**January 3, 1833.**

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*In Senate, January 3, 1833.*

**Resolved,** That the Proclamation of the President of the United States in relation to an Ordinance of a recent Convention of the people of South Carolina, be printed, in connection with the documents on that subject communicated by the Governor with his Message.

By order.

**J. F. BACON,** *Clerk.*

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**PROCLAMATION,**

**By ANDREW JACKSON, President of the  
United States.**

**WHEREAS,** a Convention assembled in the State of South Carolina, have passed an Ordinance, by which they declare, "That the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially," two acts for the same purposes passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law," nor binding on the citizens of that state or its officers. and by the said Ordinance it is further declared to be unlawful for any of the constituted authorities of the State or of the United States, to enforce the payment of the duties imposed by the said acts within

[S. No. 4.]

the same State, and that it is the duty of the Legislature to pass such laws as may be necessary to give full effect to the said Ordinance :

And whereas, by the said Ordinance, it is further ordained, that in no case of law or equity, decided in the courts of said State, wherein shall be drawn in question the validity of the said Ordinance, or of the acts of the Legislature that may be passed to give it effect, of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal, shall be punished as for a contempt of court :

And, finally, the said Ordinance declares, that the people of South Carolina will maintain the said Ordinance at every hazard ; and that they will consider the passage of any act by Congress abolishing or closing the ports of the said State, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the federal government to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union, and that the people of the said State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent states may of right do :

And whereas the said Ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of the Constitution, and having for its object the destruction of the Union—that Union, which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations. To preserve this bond of our political existence from destruction, to maintain inviolate this state

of national honor and prosperity, and to justify the confidence my fellow citizens have reposed in me, I, **ANDREW JACKSON**, *President of the United States*, have thought proper to issue this my **PROCLAMATION**, stating my views of the Constitution and laws applicable to the measures adopted by the Convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the Convention.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with state authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify, a full exposition to South Carolina and the Nation, of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured; but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution—that they may do this consistently with the Constitution—that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For, as by the theory there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint



In this last case, which makes the assumed power of a state more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous when our social compact in express terms declares that the laws of the United States, its Constitution and treaties made under it, are the supreme law of the land—and for greater caution adds, “that the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.” And it may be asserted without fear of refutation, that no federative government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected any where; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those States discovered that they had the right now claimed by South Carolina. The war into which we were forced to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the

Union, to the Legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our Constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our government.

In our colonial state, although dependent on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and before the Declaration of Independence we were known in our aggregate character as THE UNITED COLONIES OF AMERICA. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts, and when the terms of our confederation were reduced to form, it was in that of a solemn league of several States by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that union is found an article which declares that "every State shall abide by the determinations of Congress on all questions which by that confederation should be submitted to them."

Under the confederation then, no State could legally annul a decision of the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions but they were not complied with. The government could not operate on individuals. They had no judiciary, no means of collecting revenue.

But the defects of the confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home nor consideration abroad. This state of things could not be endured, and our present happy constitution was formed, but formed in vain, if this fatal doctrine prevails. It was formed for important objects that are announced in the preamble made in the name and by the authority of the people of

the United States, whose delegation framed, and whose conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is, "*to form a more perfect union.*" Now, is it possible that even if there were no express provision giving supremacy to the constitution and laws of the United States over those of the States—can it be conceived, that an instrument made for the purpose of "*forming a more perfect union,*" than that of the confederation, could be so constructed by the assembled wisdom of our country as to substitute for that confederation a form of government dependent for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

I consider then the power to annul a law of the United States, assumed by one State, **INCOMPATIBLE WITH THE EXISTENCE OF THE UNION, CONTRADICTED EXPRESSLY BY THE LETTER OF THE CONSTITUTION, UNAUTHORIZED BY ITS SPIRIT, INCONSISTENT WITH EVERY PRINCIPLE ON WHICH IT WAS FOUNDED, AND DESTRUCTIVE OF THE GREAT OBJECT FOR WHICH IT WAS FORMED.**

After this general view of the leading principle, we must examine the particular application of it which is made in the Ordinance.

The preamble rests its justification on these grounds—It assumes a fact, that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the amount raised by them is greater than is required by the wants of the government; and finally that the proceeds are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country, and a threat of seceding from the Union, if any attempt should be made to enforce them. The first virtually acknowledges, that the law in question was passed under a power expressly given by the Constitution, to lay and collect imposts; but its constitutionality is drawn in question from the *motives* of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than

to admit the position that an unconstitutional purpose, entertained by the members who assent to a law enacted under a constitutional power, shall make the law void ; for how is that purpose to be ascertained ? Who is to make the scrutiny ? How often may bad purposes be falsely imputed—in how many cases are they concealed by false professions—in how many is no declaration of motive made ? Admit this doctrine, and you give to the States an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted, that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is, that the laws in question operate unequally. This objection may be made with truth, to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any State for that cause, then indeed is the Federal Constitution unworthy of the slightest effort for its preservation. We have hitherto relied on it as the perpetual bond of our Union. We have received it as the work of the assembled wisdom of the nation. We have trusted to it as to the sheet anchor of our safety in the stormy times of conflict with a foreign or domestic foe. We have looked to it with sacred awe as to the palladium of our liberties, and with all the solemnities of religion have pledged to each other our lives and fortunes here, and our hopes of happiness hereafter, in its defence and support. Were we mistaken, my countrymen, in attaching this importance to the constitution of our country ? Was our devotion paid to the wretched, inefficient, clumsy contrivance, which this new doctrine would make it ? Did we pledge ourselves to the support of an airy nothing, a bubble that must be blown away by the first breath of disaffection ? Was this self-destroying, visionary theory, the work of the profound statesmen, the exalted patriots, to whom the task of constitutional reform was entrusted ? Did the name of Washington sanction, did the States deliberately ratify such an anomaly in the history of fundamental legislation ? No. We were not mistaken. The letter of this great instrument is free from this radical fault ; its language directly contradicts the imputation ; its spirit—its evident intent contradicts it. No, we did not err ! Our constitution does not contain

the absurdity of giving power to make laws and another power to resist them. The sages whose memory will always be revered have given us a practical, and as they hoped, a permanent constitutional compact. The father of his country did not affix his revered name to so palpable an absurdity. Nor did the States, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them, or that they could exercise it by implication. Search the debates in all their conventions—examine the speeches of the most zealous opposers of Federal authority—look at the amendments that were proposed—they are all silent—not a syllable uttered, not a vote given, not a motion made to correct the explicit supremacy given to the laws of the Union over those of the States—or to show that implication, as is now contended, could defeat it. No, we have not erred! The Constitution is still the object of our reverence, the bond of our Union, our defence in danger, the source of our prosperity in peace. It shall descend as we have received it, uncorrupted by sophistical construction, to our posterity; and the sacrifices of local interest, of State prejudices, of personal animosities, that were made to bring it into existence, will again be patriotically offered for its support.

The two remaining objections made by the Ordinance to these laws are that the sums intended to be raised by them are greater than are required, and that the proceeds will be unconstitutionally employed.

The Constitution has given expressly to Congress the right of raising revenue and of determining the sum the public exigencies will require. The States have no control over the exercise of this right, other than that which results from the power of changing the Representatives who abuse it, and thus procure redress. Congress may undoubtedly abuse this discretionary power, but the same may be said of others with which they are vested. Yet the discretion must exist somewhere. The Constitution has given it to the Representatives of all the people checked by the Representatives of the States, and by the Executive power. The South Carolina construction gives it to the Legislature or the Convention of a single State, where neither the people of the different States, nor the States in their separate capacity, nor the Chief Magistrate elected by the people have any representation. Which is the most discreet disposition of the power? I do not ask you,

fellow-citizens, which is the constitutional disposition—that instrument speaks a language not to be misunderstood. But if you were assembled in general convention, which would you think the safest depository of this discretionary power in the last resort? Would you add a clause giving it to each of the States, or would you sanction the wise provisions already made by your Constitution? If this should be the result of your deliberations when providing for the future, are you, can you be ready to risk all we hold dear, to establish, for a temporary and local purpose, that which you must acknowledge to be destructive and even absurd as a general provision? Carry out the consequences of this right vested in the different States, and you must perceive that the crisis your conduct presents at this day would recur whenever any law of the United States displeased any of the States, and we should soon cease to be a nation.

The Ordinance, with the same knowledge of the future that characterises a former objection, tells you that the proceeds of the tax will be unconstitutionally applied. If this could be ascertained with certainty, the objection would, with more propriety be reserved for the law so applying the proceeds, but surely cannot be urged against the laws levying the duty.

These are the allegations contained in the Ordinance. Examine them seriously, my fellow-citizens—judge for yourselves. I appeal to you to determine whether they are so clear, so convincing, as to leave no doubt of their correctness; and even if you should come to this conclusion, how far they justify the reckless, destructive course which you are directed to pursue. Review these objections, and the conclusions drawn from them once more. What are they? Every law then for raising revenue, according to the South Carolina Ordinance, may be rightfully annulled, unless it be so framed as no law ever will or can be framed. Congress have a right to pass laws for raising revenue, and each State has a right to oppose their execution—two rights directly opposed to each other—and yet is this absurdity supposed to be contained in an instrument drawn for the express purpose of avoiding collisions between the States and the General Government, by an assembly of the most enlightened statesmen and purest patriots ever embodied for a similar purpose.

In vain have these sages declared that Congress shall have power to lay and collect taxes, duties, imposts, and excises; in vain have they provided that they shall have power to pass laws which shall be necessary and proper to carry those powers into execution, that those laws and that Constitution shall be the "supreme law of the land, and that the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding:" In vain have the people of the several States solemnly sanctioned these provisions, made them their paramount law, and individually sworn to support them whenever they were called on to execute any office. Vain provisions! ineffectual restrictions! vile profanation of oaths! miserable mockery of legislation!—if a bare majority of the voters in any one State may, on a real or supposed knowledge of the intent with which a law has been passed, declare themselves free from its operation—say here it gives too little, there too much, and operates unequally—here it suffers articles to be free that ought to be taxed—there it taxes those that ought to be free—in this case the proceeds are intended to be applied to purposes which we do not approve—in that the amount raised is more than is wanted. Congress, it is true, are invested by the Constitution with the right of deciding these questions according to their sound discretion: Congress is composed of the representatives of all the States, and of all the people of all the States; but *we*, part of the people of one State, to whom the Constitution has given no power on the subject, from whom it has expressly taken it away—*we*, who have solemnly agreed that this Constitution shall be our law—*we*, most of whom have sworn to support it—*we* now abrogate this law, and swear, and force others to swear, that it shall not be obeyed.—And we do this, not because Congress have no right to pass such laws; this we do not allege, but because they have passed them with improper views. They are unconstitutional from the motives of those who passed them, which we can never with certainty know—from their unequal operation, although it is impossible from the nature of things that they should be equal—and from the disposition which we presume may be made of their proceeds, although that disposition has not been declared. This is the plain meaning of the Ordinance in relation to laws which it abrogates for alleged unconstitutionality. But it does not stop there. It repeals, in express terms, an important part of the Constitution itself, and of laws passed to give it effect, which have never been alleged to be unconstitutional. The Constitution declares that

the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the Constitution and Treaties, shall be paramount to the State Constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a Court of the United States by appeal, when a State tribunal shall decide against this provision of the Constitution. The Ordinance declares there shall be no appeal—makes the State law paramount to the Constitution and laws of the United States—forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that State, to enforce the payment of duties imposed by the revenue laws within its limits.

Here is a law of the United States not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the Constitution which is solemnly abrogated by the same authority.

On such expositions and reasonings the Ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which they say is a compact between sovereign States, who have preserved their whole sovereignty, and therefore are subject to no superior; that because they made the compact, they can break it, when in their opinion it has been departed from by the other States. Fallacious as this course of reasoning is, it unites State pride, and finds advocates in the honest prejudices of those who have not studied the nature of our government sufficiently to see the radical errors on which it rests.

The people of the United States formed the Constitution, acting through the State Legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction, show it to be a government in which the people of all the States collectively are represented. We are one people in the choice of the President and Vice-President. Here the States have no other agency than to direct the mode in which the votes shall



be given. The candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate, and yet another may be chosen.—The people, then, and not the States, are represented in the executive branch.

In the House of Representatives, there is this difference, that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State ; nor are they accountable to it for any act done in the performance of their legislative functions ; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents, when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

The Constitution of the United States then forms a government, not a league, and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a Government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State having expressly parted with so many powers as to constitute jointly with the other States a single nation, cannot from that period possess any right to secede, because such secession does not break a league, but destroys the unity of a nation, and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the Union, is to say that the United States are not a Nation ; because it would be a solecism to contend that any part of a nation might dissolve its connexion with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression ; but to call it a Constitutional right is confounding the meaning of terms, and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause be-

fore they made a revolution or incur the penalties consequent on a failure.

Because the Union was formed by compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it; but it is precisely because it is a compact that they cannot. A compact is an agreement or binding obligation. It may by its terms have a sanction or penalty for its breach, or it may not. If it contain no sanction, it may be broken with no other consequence than moral guilt; if it have a sanction, then the breach incurs the designated or implied penalty. A league between independent nations, generally, has no sanction other than a moral one; or if it should contain a penalty, as there is no common superior, it cannot be enforced. A Government, on the contrary, always has a sanction, express or implied; and, in our case, it is both necessarily implied and expressly given. An attempt by force of arms to destroy a Government, is an offence, by whatever means the Constitutional compact may have been formed; and such Government has the right, by the law of self-defence, to pass acts for punishing the offender, unless that right is modified, restrained or resumed by the Constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and under this grant provision has been made for punishing acts which obstruct the due administration of the laws.

It would seem superfluous to add any thing to show the nature of the union which connects us; but as erroneous opinions on this subject are the foundation of doctrines the most destructive to our peace, I must give some further development of my views on this subject. No one, fellow-citizens, has a higher reverence for the reserved rights of the States, than the magistrate who now addresses you. No one would make greater personal sacrifices or official exertions, to defend them from violation; but equal care must be taken to prevent on their part an improper interference with, or resumption of, the rights they have vested in the Nation. The line has not been so distinctly drawn as to avoid doubts in some cases of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It rests, as we have seen, on the al-

leged undivided sovereignty of the States, and on their having formed in this sovereign capacity a compact which is called the Constitution, from which, because they made it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The States severally have not retained their entire sovereignty. It has been shewn that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties—declare war—levy taxes—exercise exclusive judicial and legislative powers—were all of them functions of sovereign power. The States, then, for all these important purposes, were no longer sovereign. The allegiance of their citizens was transferred in the first instance to the Government of the United States—they became American citizens, and owed obedience to the Constitution of the United States, and to laws made in conformity with the powers it vested in Congress. This last position has not and cannot be denied. How then can that State be said to be sovereign and independent, whose citizens owe obedience to laws not made by it, and whose magistrates are sworn to disregard those laws when they come in contact with those passed by another? What shows conclusively that the State cannot be said to have reserved an undivided sovereignty, is, that they expressly ceded the right to punish treason, not treason against their separate power, but treason against the United States. Treason is an offence against *sovereignty*, and sovereignty must reside with the power to punish it. But the reserved rights of the States are not less sacred because they have for their common interest made the General Government the depository of these powers. The unity of our political character, (as has been shewn for another purpose,) commenced with its very existence. Under the Royal Government we had no separate character; our opposition to its oppressions began as UNITED COLONIES. We were the UNITED STATES under the confederation, and the name was perpetuated and the Union rendered more perfect by the Federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defence. How then, with all these proofs that under all changes of our positions we had, for designated purposes, and with defined powers, created national governments—how is it, that the most perfect of those several modes of union, should now be con-

sidered as a mere league that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution is only a league, but it is labored to prove it a compact, (which in one sense it is,) and then to argue, that as a league is a compact, every compact between nations must of course be a league, and that from such an engagement every sovereign power has a right to recede. But it has been shown that in this sense the States are not sovereign, and that even if they were and the national constitution had been formed by compact, there would be no right in any one State to exhonorate itself from its obligations.

So obvious are the reasons which forbid this secession, that it is necessary only to allude to them. The Union was formed for the benefit of all. It was produced by mutual sacrifices of interests and opinions. Can those sacrifices be recalled? Can the States who magnanimously surrendered their titles to the Territories of the West, recal the grant? Will the inhabitants of the inland States agree to pay the duties that may be imposed without their assent by those on the Atlantic or the Gulf, for their own benefit? Shall there be a free port in one State, and onerous duties in another? No one believes that any right exists in a single State to involve all the others in these and countless other evils, contrary to engagements solemnly made. Every one must see that the other States, in self defence, must oppose it at all hazards.

These are the alternatives that are presented by the Convention. A repeal of all the acts for raising revenue, leaving the government without the means of support; or an acquiescence in the dissolution of our Union by the secession of one of its members. When the first was proposed, it was known that it could not be listened to for a moment. It was known if force was applied to oppose the execution of the laws, that it must be repelled by force—that Congress could not, without involving itself in disgrace and the country in ruin, accede to the proposition; and yet if this is not done in a given day, or if any attempt is made to execute the laws, the State is, by the ordinance, declared to be out of the Union.

The majority of a Convention called for the purpose, have dictated these terms, or rather this rejection of all terms, in the name of the people of South Carolina. It is true that the Governor of the State speaks of the submission of their grievances to a Convention of all the States; which he says they "sincerely and anxiously seek and desire." Yet this obvious and constitutional mode of obtaining the sense of the other States on the construction of the federal compact, and amending it if necessary, has never been attempted by those who have urged the State on to this destructive measure. The State might have proposed the call for a general convention of the other States; and Congress, if a sufficient number of them concurred, must have called it. But the first magistrate of South Carolina, when he expressed a hope that "on a review by Congress and the functionaries of the general government, of the merits of the controversy," such a convention will be accorded to them; must have known that neither Congress nor any functionary of the general government has authority to call such a convention, unless it be demanded by two-thirds of the States. The suggestion then, is another instance of the reckless inattention to the provisions of the Constitution with which the crisis has been madly hurried on; or of the attempt to persuade the people that a constitutional remedy had been sought and refused. If the Legislature of South Carolina "anxiously desires" a general convention to consider their complaints, why have they not made application for it in the way the Constitution points out. The assertion that they "earnestly seek" it, is completely negated by the omission.

This, then, is the position in which we stand. A small majority of the citizens of one State in the Union have elected delegates to a State Convention: that Convention has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The Governor of that State has recommended to the Legislature the raising of an army to carry the secession into effect, and that he may be empowered to give clearances to vessels in the name of the State. No act of violent opposition to the laws has yet been committed, but such a state of things is hourly apprehended, and it is the intent of this instrument to PROCLAIM, not only that the duty imposed on me by the Constitution "to take care that the laws be faithfully executed," shall be performed to the extent of the powers already vested in me by law, or of such others as the

wisdom of Congress shall devise and entrust to me for that purpose; but to warn the citizens of South Carolina, who have been deluded into an opposition to the laws, of the danger they will incur by obedience to the illegal and disorganizing Ordinance of the Convention—to exhort those who have refused to support it to persevere in their determination to uphold the Constitution and laws of their country—and to point out to all the perilous situation into which the good people of that State have been led—and that the course they are urged to pursue is one of ruin and disgrace to the very State whose rights they affect to support.

Fellow citizens of my native State! let me not only admonish you, as the first magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children, whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason, on which you stand! First, a diminution of the value of your staple commodity, lowered by over-production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws. The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burthens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassallage, and that resistance to them was equal, in patriotic merit, to the opposition our Fathers offered to the oppressive laws of Great Britain. You were told that this opposition might be peaceably—might be constitutionally made—that you might enjoy all the advantages of the Union, and bear none of its burthens. Eloquent appeals to your passions, to your State pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask which concealed the hideous features of *DISUNION* should be taken off. It fell, and you were made to look with complacency on objects which not long since you would have regarded with horror. Look back to the arts which have brought you to this state; look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous cause. The

great political truth was repeated to you, that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive—it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it, made you receive with too much confidence the assertions that were made of the unconstitutionality of the law and its oppressive effects.

Mark, my fellow-citizens, that by the admission of your leaders, the unconstitutionality must be palpable, or it will not justify either resistance or nullification! What is the meaning of the word *palpable* in the sense in which it is here used?—that which is apparent to every one, that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description?—Let those among your leaders who once approved and advocated the principle of protective policy, answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence and endeavoring to mislead you now. In either case they are unsafe guides in the perilous paths they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty emulating the fame of our Revolutionary Fathers, nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage. You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operations of laws which may have been unwisely, not unconstitutionally passed; but that inequality must necessarily be removed.

At the very moment when you were madly urged on to the unfortunate course you have begun, a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that too on some articles of general consumption in your State. The importance of this change was understood, and you were authoritatively told that no further alleviation of your burdens was to be expected at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and

equitable scale. But, as if apprehensive of the effect of this change in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

I have urged you to look back to the means that were used to hurry you on to the position you have now assumed, and forward to the consequences it will produce. Something more is necessary. Contemplate the condition of that country of which you still form an important part!—consider its government uniting in one bond of common interest and general protection so many different states—giving to all their inhabitants the proud title of *American citizens*—protecting their commerce—securing their literature and their arts—facilitating their intercommunication, defending their frontiers—and making their name respected in the remotest parts of the earth! Consider the extent of its territory, its increasing and happy population, its advance in arts which render life agreeable, and the sciences which elevate the mind: See education spreading the lights of religion, humanity, and general information into every cottage in this wide extent of our Territories and States! Behold it as the asylum where the wretched and the oppressed find a refuge and support! Look on this picture of happiness and honor, and say, **WE, TOO ARE CITIZENS OF AMERICA**: Carolina is one of these proud states: her arms have defended; her best blood has cemented this happy Union! And then add, if you can, without horror and remorse, this happy Union we will dissolve—this picture of peace and prosperity we will deface—this free intercourse we will interrupt—these fertile fields we will deluge with blood—the protection of that glorious flag we renounce—the very name of Americans we discard. And for what, mistaken men! for what do you throw away these inestimable blessings—for what would you exchange your share in the advantages and honor of the Union. For the dream of a separate independence—a dream interrupted by bloody conflicts with your neighbors, and a vile dependence on a foreign power. If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home—are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring republics, every day suffering some new revolution or contending with some new insurrection—do they excite your envy? But the dictates of a high duty oblige me solemnly to announce that you cannot succeed.



The laws of the United States must be executed. I have no discretionary power on the subject; my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution, deceived you—they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion: but be not deceived by names; disunion, by armed force, is TREASON. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the threat be the dreadful consequences—on their heads be the dishonor, but on yours may fall the punishment; on your unhappy State will inevitably fall all the evils of the conflict you force upon the government of your country. It cannot accede to the mad project of disunion of which you would be the first victims—its first magistrate cannot, if he would, avoid the performance of his duty. The consequence must be fearful for you, distressing to your fellow-citizens here, and to the friends of good government throughout the world.

Its enemies have beheld our prosperity with a vexation they could not conceal; it was a standing refutation of their slavish doctrines, and they will point to our discord with a triumph of malignant joy. It is yet in your power to disappoint them. There is yet time to show that the descendants of the Pinckneys, the Sumpters, the Rutledges, and of the thousand other names which adorn the pages of your revolutionary history, will not abandon that Union, to support which so many of them fought and bled and died. I adjure you, as you honor their memory—as you love the cause of freedom, to which they dedicated their lives—as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its Convention; bid its members to re-assemble and promulgate decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity and honor; tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all; declare that you will never take the field, unless the star-spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country! Its destroyers you cannot be. You may disturb its peace—you may interrupt the course of its prosperity—

you may cloud its reputation for stability ; but its tranquillity will be restored, its prosperity will return, and the stain upon its national character will be transferred, and remain an eternal blot on the memory of those who caused the disorder.

Fellow-citizens of the United States ! The threat of unhallowed disunion—the names of those, once respected, by whom it is uttered—the array of military force to support it—denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full and explicit enunciation, not only of my intentions, but of my principles of action ; and as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties which has been expressed, I rely with equal confidence on your undivided support in my determination to execute the laws—to preserve the Union by all constitutional means—to arrest, if possible, by moderate but firm measures, the necessity of a recourse to force ; and if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

Fellow-citizens ! The momentous case is now before you. On your undivided support of your government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessing it secures to us as one people shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed, will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom and the courage which it will bring to their defence, will transmit them unimpaired and invigorated to our children.

May the great Ruler of nations grant that the signal blessings with which He has favored ours, may not by the madness of party or personal ambition be disregarded and lost : and may His wise providence bring those who have produced this crisis, to see the

folly, before they feel the misery of civil strife ; and inspire a returning veneration for that Union which, if we may dare to penetrate His designs, he has chosen as the only means of attaining the high destinies to which we may reasonably aspire.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the City of Washington this tenth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and of the Independence of the United States the fifty-seventh.

ANDREW JACKSON,

By the President :

EDW. LIVINGSTON,  
*Secretary of State,*

**No. 5.**

**IN SENATE,**

**January 2, 1833.**

**REPORT**

**Of the Comptroller, relative to Clerk hire.**

**COMPTROLLER'S OFFICE, }**  
*Albany, 2d January, 1833. }*

The Comptroller, in obdience to Section 10, Title 1, Chapter 9,  
of the First Part of the Revised Statutes,

**RESPECTFULLY REPORTS:**

That the names of the several persons employed as clerks in his  
office, at any time during the year 1832, with the period of time  
each person was so employed, and the amount of compensation paid  
to each for his services, are as follows, to wit:

Ebenezer Watson, the whole year—salary,.....	\$800 00
William Beatty, do do .....	750 00
John Nugent, do do .....	600 00
Homer R. Phelps, do do .....	700 00
James Wilson, do do .....	600 00
Louis De Witt, do do .....	500 00
Charles Bryan, do do .....	500 00
Isaiah L. Weaver, do do .....	250 00
	<hr/>
	\$4,700 00

*In the Canal Room.*

George W. Newell, the whole year—salary, \$500 00	
John T. Vernor, do do 520 00	
John Cuyler, do do 450 00	
	<hr/>
Amount carried forward,.....	\$1,530 00 \$4,700 00

Amount brought forward, .....	\$1,530 00	\$4,700 00
Robert Rusk, from 1st January to 17th July, at a salary of \$400 per annum, .....	200 00	
John Pearce, from 1st to 31st December, at a salary of \$150 per annum, .....	12 50	
		<u>1,742 50</u>
		<u>\$6,442 50</u>

The permanent appropriation for clerk hire for the Comptroller's office is, .....	\$6,000 00
In addition to this sum, there was appropriated by the 1st section of the act, chap. 332, of the laws of 1852, ....	<u>1,000 00</u>
Total appropriations, .....	\$7,000 00
Deduct the payments as above, .....	<u>6,442 50</u>
And there will remain of the appropriations, unexpended,	<u>\$557 50</u>

Robert Rusk, the clerk above mentioned as having left the office on the 17th July last, died on that day of the then prevailing epidemic, leaving a claim for his services from the 1st to the 17th of July inclusive, amounting to \$18.63. This gentleman left the office on the evening before his death at the usual hour, and without any complaint of ill health which had then reached the Comptroller. His death took place at about eight o'clock on the succeeding morning. The Deputy Comptroller immediately went to his residence and found only two small children of his family present, and no one to make preparations for his funeral. He took the charge of that matter upon himself, and incurred the following expenses, which have since been paid by the Comptroller.

Payment to Dyas and Carter, two of the attendants at the central hospital, for laying out the body and placing it in the coffin, .....	\$3 00
To Mr. Fanning, cabinet maker, for coffin, .....	8 00
To Mr. Polhman, for digging the grave, .....	3 50
To Wasson & Jewell, for carriages for funeral, .....	4 50
And subsequently the wife of the deceased came to town and represented herself in a needy condition, and the Com- ptroller paid her, .....	<u>1 50</u>
Making the total payments, .....	<u>\$19 50</u>

Under these circumstances, the Comptroller supposes that the Legislature will, by law, authorize him to draw the money due for Mr. Rusk's services as clerk, \$18.63, as little or no property was left, and he is informed and believes that administration has not been granted or applied for, to enable any person either to draw this money or to settle the above account. If this be done, the payment will take so much from the unexpended balance of the appropriations for clerk hire of the office for the past year.

The sum paid for clerk hire during the last year will be the least which the office will require for the present year, and as a commencement has been made upon the books preparatory to another tax sale, it may be necessary during the year to add to the help now in the office, in case it should be thought advisable to hasten the period when the sale shall take place. The ordinary appropriation, however, of one thousand dollars will, in the opinion of the Comptroller, be sufficient, with the permanent appropriation, to answer all the calls for clerk hire of the year.

All which is respectfully submitted.

SILAS WRIGHT, JR.

*Comptroller.*

*Dated Albany, January 2, 1833.*



**No. 6.**

# **IN SENATE,**

**January 4, 1833.**

## **Standing Committees of the Senate.**

**JANUARY 1833.**

*On Claims.*

Mr. Sherman,  
Mr. Sudam,

Mr. Cary.

*On Finance.*

Mr. Bronson,  
Mr. Dodge,

Mr. Fisk.

*On the Judiciary.*

Mr. Beardsley,  
Mr. Tallmadge,

Mr. Edmonds.

*On the Militia.*

Mr. Foster,  
Mr. Deitz,

Mr. Gere.

*On Canals.*

Mr. Hubbard,  
Mr. Armstrong,

Mr. Van Schaick.

*On Rail-Roads.*

Mr. Tallmadge,  
Mr. Halsey,

Mr. Edwards.

*On Roads and Bridges.*

Mr. Westcott,  
Mr. Lynde,

Mr. Halsey.

*On Literature.*

Mr. Lansing,  
Mr. Tracy,

Mr. Foster.

[S. No. 6.]





*On State Prisons.*

Mr. Macdonald,	Mr. Gansevoort.
Mr. Seward,	

*On Banks and Insurance Companies.*

Mr. Edmonds,	Mr. Stower.
Mr. Beardsley,	

*On the division of Counties and Towns.*

Mr. Dodge,	Mr. McDowell.
Mr. Conklin,	

*On Agriculture.*

Mr. Halsey,	Mr. Cropsey.
Mr. Gere,	

*On Manufactures.*

Mr. Armstrong,	Mr. Cary.
Mr. Quackenboss,	

*On Privileges and Elections.*

Mr. McDowell,	Mr. Deitz.
Mr. Westcott,	

*On Enrolled Bills.*

Mr. Edwards,	Mr. Lynde.
Mr. Griffin,	

*On Indian Affairs.*

Mr. Seward,	Mr. Halsey.
Mr. Conklin,	

*On Expiring Laws.*

Mr. Tracy,	Mr. Cropsey.
Mr. Macdonald,	

*On Expenditures.*

Mr. Stower,	Mr. Quackenboss.
Mr. Griffin,	

*On the Incorporation of Cities and Villages.*

Mr. Sudam,	Mr. Hubbard.
Mr. Gansevoort,	

**Select Committees on the Governor's Message.**

*On Foreign Convicts.*

Mr. Van Schaick,	Mr. Foster.
Mr. Dodge,	

*On the Public Health.*

Mr. Gansevoort,	Mr. Sherman.
Mr. Tracy,	

*On Lotteries.*

Mr. Fisk,	Mr. Van Schaick.
Mr. Lansing,	

*On the Deaf and Dumb and County Poor-Houses.*

Mr. Birdsall,	Mr. Beardsley.
Mr. Bronson,	

**Joint Committees.**

*On Communication from Governor of South-Carolina.*

Mr. Tallmadge,	Mr. Armstrong,
Mr. Hubbard,	Mr. Edmonds.
Mr. Birdsall,	

*On New-Jersey Boundary.*

Mr. Sudam,	Mr. Bronson,
Mr. Sherman,	



# No. 7.

## MEMBERS AND OFFICERS

COMPOSING THE

## SENATE

OF THE

## STATE OF NEW-YORK,

WITH THEIR RESPECTIVE

*Districts, Classes, and Places of Residence.*

FIFTY-SIXTH SESSION, 1882.

*Hon. JOHN TRACY, President, Congress-Hall.*

NAMES.	Dis.	CLASS.	PLACE OF RESIDENCE.
Thomas Armstrong,....	7	first,	American Hotel.
Levi Beardsley, .....	6	first,	Congress-Hall.
John Birdsall, .....	8	third,	American Hotel.
Alvin Bronson, .....	5	first,	do.
Trumbull Cary, .....	8	second,	Congress-Hall.
Jonathan S. Conklin, ...	1	second,	American Hotel.
Harman B. Cropsey, ...	1	third,	do.
William Deitz, .....	3	first,	do.
William I. Dodge, .....	4	second,	do.
John W. Edmonds, ....	3	third,	Mansion-House.
Samuel L. Edwards, ...	7	fourth,	do.
Josiah Fisk, .....	4	third,	do.
Henry A. Foster, .....	5	second,	American Hotel.
Peter Gansevoort, .....	3	fourth,	Dwelling H. 270 N. Market-st.
Isaac Gere, .....	4	first,	American Hotel.
John Griffin, .....	8	fourth,	Fort Orange Hotel.
Jehiel H. Halsey, .....	7	third,	American Hotel.
Louis Hasbrouck, .....	4	fourth,	do.
John F. Hubbard, .....	6	fourth,	Eagle Tavern.
Robert Lansing, .....	5	third,	Mrs. Lockwood's, 56 N. Pearl.
Charles W. Lynde, ....	6	second,	American Hotel.
Allan Macdonald, .....	2	third,	Congress-Hall.
John G. McDowell, ....	7	third,	Mansion-House.
Herman I. Quackenboss,	3	second,	National and Columbian Hotel.
William H. Seward, ...	7	second,	American Hotel.
Alpheus Sherman, .....	1	first,	do.
John G. Stower, .....	5	fourth,	Eagle-Tavern.
John Sudam, .....	2	fourth,	Congress-Hall.
Nathaniel P. Tallmadge,	2	first,	do.
Albert H. Tracy, .....	8	first,	do.
Myndert Van Schaick, .	1	fourth,	Eagle-Tavern.
David M. Wescott, ....	2	second,	National and Columbian Hotel.

JOHN F. BACON, Clerk, Office 66 State-street.

JAMES LIVINGSTON, Sergeant-at-Arms, No. 23 Fayette-street.

JAMES D. WASSON, Door-keeper, No. 23 Fayette-street.



**No. 8.**

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**IN SENATE,**

**January 3, 1833.**

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**REPORT**

**Of the Attorney-General, relative to bodies politic  
and corporate.**

*Albany, January 2, 1833.*

**To the PRESIDENT OF THE SENATE.**

**SIR,**

In pursuance of a resolution of the Senate, I transmit herewith a report upon that part of the Constitution which relates to bodies politic and corporate, and the number of votes necessary to pass a bill repealing the charter of a corporation.

I am, with great respect,

Your obedient servant,

**GREENE C. BRONSON.**



## REPORT, &c.

"STATE OF NEW-YORK, }  
IN SENATE, April 23, 1832. }

"*Resolved*, That the Attorney-General report, at the commencement of the next session of the Legislature, his opinion of the construction of section 9th, article 7th of the Constitution of this State; and particularly whether an act of incorporation can be repealed by a majority of the Legislature, or whether it requires two-thirds of all the members elected to repeal it.

"By order,

JOHN F. BACON, *Clerk.*"

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The Attorney-General, in obedience to the foregoing resolution of the Senate, respectfully submits the following

### REPORT:

The Constitution, Article VII. Section IX. is in the following words:—"The assent of two-thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public monies or property, for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate." The question to be considered, is, "whether an act of incorporation can be repealed by a *majority* of the Legislature, or whether it requires *two-thirds* of all the members elected to repeal it." And the question, no doubt, supposes a case in which the right to repeal was reserved in the original grant.

This section was not contained in the former Constitution of the State, and there is nothing in the early history of the government to aid in its construction. That part of the section which relates to appropriations of the public moneys and property, has given rise to a greater number of questions than any other provision of the Constitution. And much as it has been discussed in the Legislature and elsewhere, its application still remains the fruitful source



of conflicting opinions. That part which relates to corporations, has been found less difficult of application; and the resolution of the Senate presents the most serious question which has ever grown out of it. That it is not free from difficulty, will be readily admitted when it is mentioned that two such eminent jurists as the late Attorney-General and the late Chancellor Kent have arrived at different conclusions on the subject; the former holding that the votes of a majority only, and the latter that the votes of two-thirds of all the members elected, are necessary to a bill repealing an act creating a corporation. Those opinions may be found in the *Assembly Journal* of the year 1824, p. 1287; and 2 *Kent's Commentaries*, (2d edition,) p. 308.

It was remarked by a committee of the Assembly in 1828, "that this section of the Constitution is to receive a strict construction; because it is a limitation upon the power of the Legislature, which power is the supreme power of the State: A power that is absolute and unlimited, except so far as it is restrained by the provisions of the Constitution. The aforesaid section therefore cannot be applied to any bill, unless such bill is most clearly, and beyond all doubt, embraced within its letter and its spirit." This doctrine, if well founded, would fortify the conclusion to which the Attorney-General has arrived in relation to the question presented by the Senate. But he is unable to yield his assent to this mode of interpreting the Constitution. It cannot be strictly proper to call this a limitation of power. The authority of the Legislature to pass bills appropriating the public money to private purposes, and creating corporations, remains as unlimited as it was before. There is neither any restriction upon the number of bills that may be passed for such purposes; nor is the Legislature confined to any particular class of cases, or set of circumstances under which such enactments may be made. The Constitution, therefore, has not interfered with the power of the Legislature, but only regulated the manner of its exercise. In relation to most subjects of legislation, it is provided that "a majority of each house shall constitute a quorum to do business," (Const. Art. I. Sec. III.) and upon admitted principles, the votes of the major part of the members present are sufficient to pass a bill. But in relation to a particular class of cases, the same Constitution has given a different rule, and required the votes of two-thirds of all the members. In the one case, it may happen that nine votes in the Senate, and thirty-three in the House, will be sufficient to make a law; while in the other

case, twenty-two votes in the Senate, and eighty-six in the Assembly, are necessary for that purpose. Still the latter provision is no more to be regarded as a limitation of power, than the former. It contains an exception to the general rule, that the majority shall govern; but that fact cannot change the principles upon which the Constitution is to be interpreted.

If it be admitted however that this provision may properly be regarded as a limitation of power, it is not for that cause to receive "a strict construction." Restrictions upon power are among the primary objects in forming written constitutions and charters of government; and furnish the principal distinction between the condition of a free people and the servants of despotic authority. And the language by which the people have either refused the grant of particular powers, or regulated the manner of their exercise, is to receive the same just and liberal construction, as that by which they have described the powers which they are willing to delegate. Any different rule of interpretation, would go far to undermine the foundation of all charters of civil liberty.

The question then, in expounding this or any other clause in the Constitution, is, not how much or how little it may be made to mean, by adopting either a liberal or a strict construction; but what is the just and fair import of the language employed, without distorting it either the one way or the other, for the advancement of any favorite object. And in cases of doubt or difficulty, the meaning is to be ascertained by entering, if possible, into the mind and intent of those who framed and adopted the instrument; and to consider it as though they were present to respond to the inquiry, whether the particular case was or was not designed to be included in the provision.

Without considering further the proper rules for interpreting the Constitution, the question presented is, *whether a bill repealing the charter and working the entire dissolution of a corporation, is a bill "creating, continuing, altering or renewing" the body corporate?*—The word "altering" is the only one which can give rise to a diversity of opinion on this subject: for it is apparent, that a bill repealing the charter, cannot, with the least degree of propriety, be denominated a bill either "creating, continuing, or renewing" the corporation. The matter may then be considered in the first place, upon the true force and meaning of the word "altering," without

regard to the connection in which it is used. *To alter*, as defined by the most approved lexicographers, means, to make some change in, to make otherwise than it is, or different in some particular, to vary in some degree. It implies only a change made in some part of a thing, while the thing itself remains, though in a different state or condition from what it was before: and it never supposes the end or destruction of the thing said to be altered. And to hold that this word includes the case of a bill working the annihilation of a corporation, is to give to it a more extended signification than either authority or the common use of our language will justify.

There is nothing in the subject to which the word is applied, indicating that it ought to receive a more enlarged definition than has usually been awarded to it. And the words with which it stands connected, plainly point the clause to a different purpose, from that of furnishing any new protection to the enjoyment of corporate franchises. And this leads to the consideration of the spirit of the provision, or the intention of the framers of the Constitution as manifested on the face of the section. And looking at the whole clause, it appears to be undeniable that the intention of the Convention was to impose a check upon the *increase* of corporations and corporate privileges. Every word employed to designate the particular description of bills, is suited to that intention. Three of the four words are so directly adapted to that end, and to no further or different purpose, that the subject cannot be made more plain by argument. And the fourth word, "altering," was necessary to carry that intention into full effect. Neither of the other words would extend further than to the original institution of a corporation, and the continuance of its duration; while the grant of new powers and privileges to an existing body politic, would have remained without any such safeguard. But the word "altering," in connection with the others, has effectually covered the whole ground; so that a corporation can neither be created, nor can its franchise be in any way enlarged, without the votes of two-thirds of all the members elected to each house. Had there been any intention to carry the provision further, and to guard against the repeal of a charter, it can hardly be doubted, that some appropriate word, such as *repealing*, *dissolving*, *abolishing*, *impairing*, would have been either substituted or inserted. To say then that the framers of the Constitution designed, by the word "altering," to protect the enjoyment of corporate franchises, is to suppose that

they adopted a very unsuitable word to express their meaning, when a more appropriate expression would readily have suggested itself to the mind of any man of ordinary capacity.

While, however, it is denied that the general intention manifested on the face of the section, extends further than to guard against the increase of corporations and corporate privileges, it must be admitted that in reference to a particular case, the language of the provision is more extensive in its signification. The taking away of a part only of the privileges of a corporation by repealing a single section or clause of its charter, would be "altering" the body politic. But the repeal of a single section or clause would not necessarily diminish, but might increase the value of the franchise. If the part repealed contained a limitation of the powers granted by other portions of the charter, such repeal would as effectually amount to a new grant as any other mode in which it could be conferred. The word "altering" was therefore a proper and necessary word, within the intention which has been imputed to the framers of the Constitution. And although in the particular case mentioned, it may reach beyond the purpose for which it was employed, that fact proves little more, than that the convention did not always succeed in finding an expression which should accurately suit the purpose in hand, without advancing a single step beyond the mark. And if it be admitted in relation to a partial repeal impairing the privileges of the corporation, that the language is too plain and explicit to be controlled by what appears to be the spirit of the provision; it does not follow that the section extends to a bill working the entire destruction of a corporation—a case neither within the language, nor the intention of the framers of the Constitution. It may be difficult to assign any good reason for requiring the votes of two-thirds of all the members to a bill taking away a part only of the franchise, while a majority can repeal the charter altogether; but the question to be settled does not depend upon the fitness of things, but upon positive regulation.

The legislative history of the State anterior to the adoption of the new Constitution, goes to confirm the construction which has been given to this section. The public moneys and property had very often been appropriated for local and private purposes. And it can hardly be doubted that the passing of bills of this description had in some instances been procured by great importunity, and in others by fraud and imposition. And such appropriations,

however they might be obtained, proceeded from the bounty, rather than the justice of the government. It was therefore deemed proper, without prohibiting such grants in future, to require a greater number of votes to pass a bill of this description, than was necessary in making appropriations for the benefit of the whole community. But the provision was not extended to a bill recalling a private or local grant when once made; because that case was not within the mischief which the convention intended to remedy.

A reference to the Statute book will also show, that corporations, which have always been regarded as a public, though to some extent a necessary evil, had not only been greatly multiplied, but had been authorised to engage in many of those pursuits which had usually depended upon individual enterprise. It is also a part of the record history of that period, that grants of corporate privileges had sometimes been obtained through means which were well calculated to shake the confidence of the people in the integrity of their representatives. And it cannot be doubted that these considerations had their influence with those who framed, and those who adopted the provision requiring the votes of two-thirds of all the members to a bill conferring corporate franchises. But it is believed that no case had occurred in which the Legislature had improperly interfered with the enjoyment of corporate franchises. Indeed no instance is recollected, in which the Legislature, either with or without cause, had repealed the charter, or taken away any of the privileges of a corporation. There was then no mischief of that kind which demanded a remedy; nothing which either required or would naturally have suggested, the extension of this provision to a bill dissolving a corporation.

The history of this section in the Convention, will go to confirm the opinion that the framers of the Constitution did not intend to afford any new protection to the enjoyment of corporate franchises, but only to guard the public against a dangerous multiplication of corporate bodies, and the enlargement of their powers. This history may be found in the debates in the Convention, published by Messrs. Carter & Stone, and in the Journal of its proceedings. On the 13th September, 1801, Mr. King, from the committee on that part of the Constitution which related to the legislative department, reported several sections to be adopted in the new frame of government; among which was the following: "XI. That the assent of two-thirds of the members [2] present in

each branch of the Legislature shall be requisite to every bill [1] creating [5] any body politic or corporate, for any purpose whatsoever." (Journal, page 63. Debates, 143.) Figures have been inserted for the purpose of more readily applying the amendments which were subsequently made in the section. On the 16th October, the Convention had the legislative department under its consideration, when a call was made upon the committee for the reasons which had induced them to propose this section. The answer of their chairman is reported as follows:—"Mr. King said the committee had looked upon the multiplication of corporations as an evil. They have been created for a great variety of purposes. These corporations, he said, were exceptions to the common law; they could not be proceeded against in the ordinary way of prosecutions against individuals in ordinary courts of justice. Twenty years ago they were considered as heresies. The first attempts which were made to introduce them were resisted and defeated; but they had since become very common; and he believed, were generally admitted to have produced great public mischief." In answer to an objection that the section proposed was too extensive, his further remarks are reported as follows:—"Mr. King had understood that a law of this State had already provided for turnpikes and religious societies, that they may be formed without coming to the Legislature for an act of incorporation. That the common law abhorred monopolies, was a doctrine well known to the most superficial reader of jurisprudence. We ought not to increase them, but to diminish them as far as we can consistently with the preservation of vested rights."

These remarks appear to have satisfied the only member who had expressed a doubt upon the policy of this provision: and the Convention immediately adopted several amendments extending the principles which had guided the committee. *First* amendment, to insert at figure 1 the words, "appropriating public moneys, [4] for local [3] purposes, or"—*Second* amendment, at figure 2, strike out "present," and insert "elected." *Third*, at figure 3, insert "or private." [Debates, p. 446. Journal, p. 235.] On the 29th October, this section again came in review before the Convention, when a *fourth* amendment was adopted, to insert at figure 4 the word "property:" and a *fifth*, to insert at figure 5 the words "or renewing charters of" (Debates, p. 503. Journal, p. 238.) On the 31st October, the question upon this section as

amended, with the residue of the provisions in relation to the legislative department, was put and carried. (Debates, p. 581—2. Journal, 363—6.) On the 5th November, Mr. Yates, from the committee appointed to arrange the amendments agreed upon by the Convention, made a report, in which this section appeared substantially in the form which was finally adopted, with the exception that the words "continuing, altering," were not then included. (Journal, p. 418, 439. Debates, 625.) The Convention was the next day in committee on this report, but it does not appear, either from the Journal or Debates, what amendments were adopted in relation to this section. (Debates, p. 628. Journal, p. 450.)

It may here be remarked, that the Journal, so far as has been observed, does not show what amendments were at any time adopted in committee, except those upon which a division was taken. On the following day, 7th November, Mr. Sanford, from a committee for that purpose, reported the Constitution as amended, including this section, in the form in which it was finally adopted. (Journal, p. 456, 477. Debates, 630, 637.) On the 8th November, this section came before the Convention for the last time, before the final question upon the whole amended Constitution, when it passed without further modification. (Debates, p. 649. Journal, p. 485.

The words "continuing, altering," with some other less important modifications, must have been adopted while the Convention was in committee on the 6th of November, between the time of the report by Mr. Yates and that by Mr. Sanford. Upon what suggestion these words were introduced does not appear. The first one was manifestly adopted for greater caution, and in furtherance of the policy which influenced the original report of the section, as explained by Mr. King: and the second, as has already been seen, was necessary to carry out the principle. The fact that this amendment was passed without division or debate, affords strong evidence that it was not regarded by the Convention as the adoption of a new principle, but was inserted in furtherance of the views which had been so distinctly manifested on this subject.

There has been one Legislative precedent (possibly more,) directly in affirmance of the opinion expressed in this report. In the year 1824 an act was passed dissolving the corporation of the Albany Mechanics' Society. Laws 1824, p. 275. This bill in

both houses was passed as a majority bill, as may be seen by referring to the original engrossed bill in the Secretary's Office and the journals of the Senate and Assembly. Neither the certificates of the President of the Senate and Speaker of the Assembly, nor the entries in the journals, mention that it had been passed by the votes of two-thirds of all the members, as then was, and still is, the uniform practice in relation to bills falling within the ninth section of the seventh article. The bill originated in the Senate. Whether this particular question was discussed in that body does not appear; but in the House, the bill was referred to the Attorney-General for his opinion upon that point, and it was in pursuance of that reference that he made the report before mentioned, that such a bill did not require the votes of two-thirds, but might be passed by a majority only. And this opinion seems to have been unanimously approved by the Assembly. Senate Journals, 1824, p. 318. Assembly Journal, 1824, p. 1287.

Another question of a similar character was the same year before the Senate. In 1823 an act was passed incorporating the New-York Chemical Manufacturing Company. Laws 1823, p. 37. In April, 1824, an act was passed amending the former one in several particulars, and especially by granting banking powers to the corporation. Laws 1824, p. 140. At the fall session of that year a bill was introduced in the Senate, and passed in committee of the whole, to repeal the last mentioned statute. After the third reading of the repealing act, the President of the Senate decided that it required the votes of two-thirds of all the members to pass the bill. On an appeal from that decision, the opinion of the President was sustained by the votes of eighteen against three of the Senators. Senate Journal, 1824, p. 533, 536, to 540, 544-5. Upon this decision it is proper to remark, that the case fell within the distinction which has already been noticed, between a bill taking away a part and one destroying the whole corporate franchise. Had the repealing act been passed, it would only have shorn the company of its banking powers, while the corporation itself would have remained with all the privileges conferred by its original charter. That this distinction was taken by those Senators who voted with the President is rendered highly probable, by the fact, that the same Senate in the case before mentioned, passed as a majority bill one which worked the entire dissolution of a corporation.



No other Legislative precedents have fallen under the observation of the Attorney-General.

Without further pursuing the inquiry, the Attorney-General is of opinion, that a bill repealing the charter and working the entire dissolution of a corporation, does not require the votes of two-thirds, but may be passed by a majority of the members in each branch of the Legislature.

Respectfully submitted,

GREENE C. BRONSON,

*Attorney-General.*

*January 1, 1833.*

**No. 9.**

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**IN SENATE,**

**January 3, 1833.**

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**REPORT**

**Of the Attorney-General, in relation to the assessment of Taxes upon Incorporated Companies.**

*Albany, January 2, 1833.*

**TO THE PRESIDENT OF THE SENATE.**

**SIR,**

In pursuance of a resolution of the Senate, I transmit herewith a report in relation to the assessment of taxes upon incorporated companies.

Very respectfully,

Your obedient servant,

**GREENE C. BRONSON.**



## REPORT, &c.

STATE OF NEW-YORK, }  
IN SENATE, April 25, 1832. }

*"Resolved, That the Attorney-General prepare a bill embracing the suggestions in his report of the 11th of April, 1832, on the subject of the tax on incorporated companies, and that he report such bill to the Legislature at their next session.*

*"By order,*

*JOHN F. BACON, Clerk."*

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The Attorney-General, in obedience to the foregoing resolution of the Senate, has prepared a bill relative to the assessment of taxes upon incorporated companies, with explanatory remarks, which is herewith respectfully submitted to the consideration of the Legislature.

GREENE C. BRONSON,  
*Attorney-General.*

*January 1, 1833.*

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## PROPOSED BILL.

*AN ACT relative to the assessment of taxes upon Incorporated Companies.*

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

§ 1. The eighth section of title four, chapter thirteen, of the first part of the Revised Statutes, shall extend and apply to all incorporated companies liable to taxation on their capital.

REMARKS. See 1 R. S. 416, sec. 8. Former report on this subject, Senate Documents, 1832, No. 103. The proposed section follows the opinion expressed in the former report upon the true construction of the existing laws, and will remove the doubt that has been entertained by the assessors on that subject.

But whatever may be the opinion of the Legislature about the construction of the existing law, it may be thought a better rule not to allow any deduction from the assessment of a corporation on account of its stock in other companies. In that case, the following substitute for the proposed section will attain the object.

§ 1. The eighth section of title four, chapter thirteen, of the first part of the Revised Statutes, shall only extend to manufacturing and turnpike corporations.

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§ 2. The seventh section of the said title shall extend to and include marine insurance companies.

REMARKS. See concluding paragraph of former report. On looking at the exception in the 3d subdivision of section 6, (1 R. S. 415,) it seems apparent that marine insurance companies were omitted in the seventh section by mistake.

At the time the Revised Statutes were passed, it seems to have been understood, that the stock of marine insurance companies was below its nominal value; and they were on that account directed to be assessed according to "the cash value of the stock." On inquiry in the city of New-York, it is ascertained that the stock of about half those companies is below its nominal value, while the stock of the other half is above par. The practice has been, whether the stock was above or below par, to assess those companies in the same manner with banks and fire insurance companies, according to the nominal value of the stock. Should the Legislature deem that a proper rule, the following substitute for the proposed section will attain the object.

§ 2. So much of the exception in the third subdivision of the sixth section of said title as includes marine insurance companies, is hereby repealed.

**No. 10.**

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**IN SENATE,**

**January 2, 1833.**

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**REPORT**

**Of the Attorney-General, relative to the election  
and classification of justices of the peace.**

*Albany, January 2, 1833.*

**To the PRESIDENT OF THE SENATE.**

**SIR,**

In pursuance of a resolution of the Senate, I transmit herewith a report relative to the election and classification of justices of the peace.

With great respect,

Your obedient servant,

**GREENE C. BRONSON.**



## REPORT, &c.

"STATE OF NEW-YORK, }  
IN SENATE, April 20, 1832. }

*"Resolved,* That the committee on the judiciary be discharged from the further consideration of the engrossed bill from the Assembly, entitled "An act relative to the election of justices of the peace;" and that the same be referred to the Attorney-General, for him to report thereon at the next session of the Legislature.

"By order,

JOHN F. BACON, *Clerk.*"

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The Attorney-General, in obedience to the foregoing resolution of the Senate, respectfully submits the following

### REPORT:

In each of the towns in this State, the term of one justice of the peace expires annually with the close of the year; and a person to supply his place is elected at the preceding annual town-meeting. Besides the case of the regular expiration of the term for which a justice was elected, vacancies sometimes happen by death, resignation or removal; and in such cases, two or more persons are to be elected justices; the one for the regular term of four years, and the other or others for three, two or one year, or even a shorter period. Under the existing law, the class to which they respectively belong, is to be determined by lot: and it may chance that the person who was intended by the electors to supply an existing vacancy for only a single year, or even a shorter period, obtains the longest term; while the person who was intended by the voters for the longest term, obtains only the lot of the shortest period.

But this is not the only difficulty in the present system. It often happens that the electors wish to retain a faithful magistrate whose term will expire at the close of the year, and at the same time an existing vacancy is to be filled. If in such case the person already



a justice draw the shortest term, the intention of the electors as to the place he shall occupy is not only defeated, but the vacancy is not filled. The justice already in office is under no obligation to abandon what remains of his former term, and accept the vacancy: And should he do so, the number of acting justices is not increased; for the other person elected, having drawn the regular term, cannot enter upon the duties of his office before the first day of January next following his election.

The engrossed bill mentioned in the resolution of the Senate, was designed to remedy these evils. The first section is in the following words;

"At any election for more than one justice of the peace at the same time in any town, there shall be written or printed on the ballot containing the name of the person voted for, a designation of the term or vacancy for which he is to be elected; [and the words "first vacancy" shall mean four years, "second vacancy" shall mean three years, "third vacancy" shall mean two years, and "fourth vacancy" shall mean one year;] and the persons elected shall be deemed chosen to the term or vacancy thus designated on the ballots given for them respectively." Accompanying the bill is a proposed amendment, to strike out the words enclosed in brackets, and insert the following: "which designation shall specify the number of years for which it is intended that such justice shall be elected."

The proposed amendment would simplify the bill, so that the electors would be less likely to fall into any mistake in expressing their intention. But there are serious difficulties in the way of requiring any designation of the term upon the ballot. It is not improbable that some voters, not conversant with the laws, would omit to make the necessary specification, or make it in an imperfect or insufficient manner, and thus lose their votes. And it consequently might happen that a person receiving only ten votes properly prepared, would be elected, over a man who had received ten times as many votes, imperfect for want of the proper designation.

But if it be supposed that every elector will make the proper designation, the bill is still subject to objection. If required by law to designate the term, then the elector not only votes for a particular person for the office of justice, but he votes for him in reference

to a particular term or vacancy; and the canvassers must determine which person has the greatest number of votes, not generally, but for that particular term or vacancy. And thus it may be that a person receiving a majority of all the votes, may nevertheless fail of an election, for the reason that his friends did not agree as to the place which he should fill. To exemplify this in a case where two justices are to be elected, one for four, and one for three years: Let it be supposed that there are one hundred electors; that 60 of them vote for A and B, and the remaining 40 vote for C and D. Should the 60 voters differ about the term—half of them designating A for four years, and B for three; and the other half designating B for four, and A for three years; and should those who vote for C and D agree in their designations of the term intended for each, then C and D, with only 40 votes each, would be elected against A and B, who respectively received 60 votes.

If instead of two, three justices were to be elected, the objection already mentioned might be still greater, as will sufficiently appear from the following table, in which the capital letters represent the candidates; the figures 1, 2, 3, the classes as designated by the electors; and the figures in the left hand column, the number of votes received by each:

	1.	2.	3.
24.	A,	B,	C,
24.	B,	C,	A,
24.	C,	A,	B,
28.	D,	E,	F.
<hr/>			
100.			

In this case, although A, B and C, would have severally received 72 votes out of 100, yet, owing to a disagreement among their supporters about a collateral matter, D, E and F, with only 28 votes each would be elected; and if four justices were required to be chosen the case would be still worse. The project is also subject to the further objection that the same person might be elected to fill different places at the same time.

The engrossed bill under consideration also provides that there shall be a separate box and poll list for the ballots for justices of the peace. But this would not remedy the difficulties that have been suggested.

The most direct and simple method of carrying into effect the intention of the people in choosing and classifying justices, would be to authorise a special town meeting to fill vacancies whenever they arise; but this course is not permitted by the Constitution. And no plan, entirely free from objections has occurred to the Attorney-General. He has however, prepared a bill on that subject, which is herewith respectfully submitted to the consideration of the Legislature.

The first section of the proposed bill, was suggested by the fifth section of an act passed at the last session of the Legislature. Laws 1832, p. 555-6. That section was wholly retrospective in its operation, and furnished no rule for future cases. No sufficient objection is perceived against making the provision general. It is based upon the presumption that when a person then holding the office of justice of the peace for an unexpired term is re-elected, the voters always intend that his new term shall commence when his former one expires. To affirm the contrary, is to suppose that the electors intended to fill an existing vacancy in the office without increasing the number of their justices.

The second section of the proposed bill, in cases not provided for by the first, allows the electors, without requiring them to do so, to designate on their ballots the person intended for the longest term. The ballots will consequently be sufficient whether they contain any designation of the term or not; and the election, without any reference to that circumstance, will be determined as in other cases, by the greatest number of votes. This will give the electors an opportunity to express their intentions concerning the longest term, if they will exercise the necessary diligence to accomplish the object.

The third section determines in what cases one of the persons elected shall be entitled to the longest term. *First:* He must have received more designations for the place than any other person elected. *Second:* Such designations must amount to a majority of all the ballots for justices, or be equal in number to the votes received by either of the other persons elected. The first provision can need no illustration. But that would not be sufficient without the second or something like it. As no one is required to designate the term, but only permitted to do so if he please, it might happen that a few only of the electors would make the de-

signation, and thus a man might obtain the longest term against the will of a majority of the voters. But if such designation appear upon a majority of all the ballots for justices, that must of course express the wishes of a majority of all the electors. This rule however, would be defective in cases where three sets of candidates are supported, for in that case a man may be elected by a plurality, without a majority of the votes: and to make it necessary that the designation should be made on a majority of all the ballots, would be to require that he should have more designations than votes. The alternative was therefore inserted, that such designation should be made upon a number of ballots equal to the number of votes received by either of the other persons elected. This provision may appear somewhat complicated at the first; and cases may arise where mistakes will be made in its application. Still it is believed that it will generally furnish a convenient and safe rule: and a strong desire has been manifested in various quarters, for some means of allowing the electors to determine which of the justices elected shall hold for the longest term, instead of leaving that question to be determined as the law now stands, by a lottery.

The fourth section makes provision for having this question settled by the presiding officers at the town-meeting, in the same manner as they determine on the canvass who is elected. See 1 B. S. 342, 344, sec. 7 to 10.

Section five directs that where no person has been elected for the regular term of four years in either of the ways before mentioned, the classes of all shall be determined by lot as now provided by law.

The sixth section provides for the case where one person has been elected for the regular term, and two or more persons have been elected to fill existing vacancies; and directs the particular vacancy to be determined by lot. No attempt has been made to have that matter settled by the electors, for the reason that it would render the provisions of the bill too complicated for practical utility. And besides it seldom happens that there is more than one existing vacancy to be filled at the same time; and having provided for that case, no great inconvenience can be experienced from leaving the other matter on its present footing.

The seventh and last section needs no explanation.

The following references may be found convenient: 1 R. S. 110 to 112; ib. 342 to 344. 3 R. S. 203; ib. appendix 100, 101.

The subject of classifying justices so as to fulfil the wishes of the people by whom they are elected, although apparently very simple, will not be found on examination to be entirely free from difficulty. Whether the proposed bill is calculated to accomplish the desired object, is respectfully submitted to the consideration of the Legislature.

GREENE C. BRONSON,  
*Attorney-General.*

January 1, 1833.

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### PROPOSED BILL.

AN ACT *relative to the election and classification of Justices of the Peace.*

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows.*

1. When two or more persons shall be elected to the office of justice of the peace at any annual town-meeting, the one of whom shall be an incumbent of the office for a term not then expired, such incumbent shall be deemed elected for the regular term of four years, which will commence on the first day of January next following such election.

2. When at any such town-meeting, except the first election in a new town, two or more persons are to be elected to the office of justice of the peace, it shall be lawful for each of the electors not voting for a person who may then be an incumbent of the office, to designate on his ballot the person intended for the regular term of four years, which will commence on the first day of January then next following, by the words, or words and figures "Longest term," "four years" or "4 years"; and the persons having the greatest number of votes, without any reference to such designation, shall be deemed duly elected.

3. The person elected and having the greatest number of such designations, shall be deemed elected for the regular term of four years; provided such person shall be so designated upon a majori-

ty of all the ballots for justices at such election, or upon a number of ballots equal to the whole number of votes given to either of the other persons who may be elected.

4. The presiding officer or officers at any annual town-meeting at which justices of the peace shall be elected, shall determine whether any, and what person, in pursuance of the foregoing sections, has been elected for the regular term of four years; which determination shall be made at the same time and with the like force and effect as he or they may determine what persons are elected to the office of justice of the peace; and such determination shall be entered in the minutes of the proceedings of the meeting, and shall be publicly read, and shall be deemed notice of the result, in the same manner as is now provided by law in relation to the canvass.

5. Where no person shall be elected for the regular term of four years in pursuance of either of the preceding sections, the classes of all the persons elected to the office of justice of the peace, at any such annual-town meeting, shall be determined by lot within the time and in the manner now prescribed by law.

6. Where one person shall have been elected for the regular term in pursuance of the foregoing provisions, the other person or persons elected justices of the peace, shall be deemed elected to fill the existing vacancy or vacancies; and in case of more than one existing vacancy, the classes of the persons elected to fill the same shall be determined by lot within the time and in the manner now prescribed by law.

7. This act shall take effect immediately on the passing thereof: and it shall be the duty of the Secretary of State to cause the same to be published without delay in the state paper, and in such other manner as he may deem expedient.



# No. 11.

## MEMBERS OF THE SENATE,

WITH THEIR RESPECTIVE

*Districts, County and Nearest Post-Office.*

**FIFTY-SIXTH SESSION, 1882.**

***Hon. JOHN TRACY, Lieut. Gov. and President, Oxford, Chenango.***

DISTRICTS.	COUNTY.	NEAREST POST-OFF.
<i>First District.</i>		
Alpheus Sherman, .....	City and Co. of N. Y.	City of New-York.
Jonathan S. Conklin, ...	Suffolk, .....	Easthampton.
Harman B. Cropsey, ...	Richmond, .....	Richmond.
Myndert Van Schaick, .	City and Co. of N. Y.	City of New-York.
<i>Second District.</i>		
Nathaniel P. Tallmadge,	Dutchess, .....	Poughkeepsie.
David M. Wescott, ....	Orange, .....	Goshen.
Allan Macdonald, .....	Westchester, .....	White-Plains.
John Sudam, .....	Ulster, .....	Kingston.
<i>Third District.</i>		
William Dietz, .....	Schoharie, .....	Schoharie, C. H.
Herman I. Quackenboss,	Greene, .....	East-Hunter.
John W. Edmonds, ....	Columbia, .....	Hudson.
Peter Gansevoort, .....	Albany, .....	Albany.
<i>Fourth District.</i>		
Isaac Gere, .....	Saratoga, .....	North-Galway.
William I. Dodge, ....	Montgomery, .....	Johnstown.
Josiah Fisk, .....	Clinton, .....	Keeseville.
Louis Hasbrouck, .....	St. Lawrence, .....	Ogdensburgh.
<i>Fifth District.</i>		
Alvin Bronson, .....	Oswego, .....	Oswego.
Henry A. Foster, .....	Oneida, .....	Rome.
Robert Lansing, .....	Jefferson, .....	Watertown.
John G. Stower, .....	Madison, .....	Hamilton.
<i>Sixth District.</i>		
Levi Beardsley, .....	Otsego, .....	Cherry-Valley.
Charles W. Lynde, ....	Cortland, .....	Homer.
John G. McDowell, ....	Tioga, .....	Chemung.
John F. Hubbard, ....	Chenango, .....	Norwich.
<i>Seventh District.</i>		
Thomas Armstrong, ....	Wayne, .....	Butler.
William H. Seward, ...	Cayuga, .....	Auburn.
Jehiel H. Halsey, .....	Seneca, .....	Lodi.
Samuel L. Edwards, ...	Onondaga, .....	Manlius.
<i>Eighth District.</i>		
Albert H. Tracy, .....	Erie, .....	Buffalo.
Trumbull Cary, .....	Genesee, .....	Batavia.
John Birdsall, .....	Chautauque, .....	Mayville.
John Griffin, .....	Allegany, .....	Cuba.





**No. 12.**

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**IN SENATE,**

**January 4, 1833.**

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**REPORT**

**Of the committee appointed to examine the Treasurer's accounts.**

The committee appointed for the purpose of examining the Treasurer's accounts, by concurrent resolution of both houses of the Legislature, in pursuance of title four of chapter eight of the Revised Statutes,

**RESPECTFULLY REPORT:**

That they have examined and computed the amount of all moneys received into and paid out of the treasury, during the year commencing on the first day of October, 1831, and ending on the thirtieth day of September, 1832, both days inclusive; by which it appears that during that period there has been paid into the treasury the sum of \$2,110,386.65, which added to the sum of \$62,437.55, the amount remaining therein on the first day of October, 1831, makes the sum of \$2,172,824.20.

There has been paid out of the treasury, on warrants drawn by the Comptroller during that period, the sum of \$2,172,535.83; leaving a balance in the treasury on the said first day of October, 1832, of \$288.37.

From the bank book of the Treasurer, kept by the Commercial bank in Albany, and the certificate of the cashier of the Manhattan bank in New-York, it appears that there remained to the credit of the Treasurer on the first day of October last, in the Commercial bank, ..... \$20,560 31  
Uncurrent bills, ..... 779 06

Carried forward, ..... \$21,339 37

Brought forward, .....	\$21,339 37
Manhattan company, .....	13,067 15
	<hr/>
	\$34,406 52
	<hr/>

These deposits show an excess of \$34,118.15 above the amount which appears to be in the treasury by the Treasurer's account, and which is accounted for by the amount of unpaid checks drawn by the Treasurer on the Commercial bank, on the first day of October last, as appears by the certificate of the Comptroller, to the sum of \$21,051.00, and by the amount of unpaid checks drawn by the Treasurer on the Manhattan company, outstanding on that day, to the sum of \$6,391.01, and by the amount of uncertified deposits in the Manhattan company, not charged to the Treasurer in consequence of the certificates thereof not having been produced, amounting to the sum of \$6,676.14, as also appears by the certificate of the Comptroller.

The committee have also examined all the warrants drawn by the Comptroller and credited to the Treasurer, amounting to the aforesaid sum of \$2,172,535.83, with the accounts and vouchers accompanying the same and the audits thereof by the Comptroller. They have also compared them with the several statutes by virtue of which they purport to have been drawn, and in the opinion of the committee they have all been drawn and paid in conformity to the laws, and for demands which are properly chargeable upon the treasury, except the following.

Warrants Nos. 1381 and 1429, for the redemption of lands sold for taxes.

In these warrants the same mistake occurs, of not paying to the purchaser the full amount refunded; in the first of \$30, and in the last of \$12.35.

Warrant No. 54, for expenses of the Comptroller's office.

In this warrant, the sum of \$8 for a blank book for the Commissioners of the Canal Fund has been audited by mistake in an account of sundry items, and paid out of the General Fund. The committee think it properly chargeable to the Canal Fund.

Warrants Nos. 896 and 900, for the transportation of convicts.

These warrants are in favor of the same sheriff; the first for the transportation of one female convict to the New-York State prison, and the last for the transportation of three convicts to Mount-Pleasant State prison. These warrants bear the same date, viz. March 27, 1832, as do also the certificates of the agent and deputy keeper accompanying them, viz. March 26, 1832, though from the fact that one is numbered 896 and the other 900, it is presumed that they were presented to the Comptroller at different times, though on the same day. These charges should, in the opinion of the committee, have formed but one, as for the transportation of four convicts to Mount-Pleasant, and as for the transportation of one convict from thence to the prison at New-York, by that means materially diminishing the expense. If, however, there should be any doubt about the correctness of this view of those charges, it should, in the opinion of the committee, be removed by Legislative enactment.

The committee conclude with the expression of their high satisfaction with the result of a strict investigation of the Comptroller's and Treasurer's offices, facilitated by every means in the power of those departments,

JOHN McLEAN, JUN,  
AARON REMER,  
ELISHA LITCHFIELD.

*December 18, 1832,*



**IN SENATE,**

**January 9, 1833.**

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**Report of the select committee on the petition of  
Bradley Tuttle and others.**

The select committee to whom was referred the petition of Bradley Tuttle, Truman J. McMaster and Joshua Hoskins, commissioners for building a new stone jail in the county of Cayuga, praying for the passage of a law authorising the board of supervisors of said county to raise the additional sum of two thousand dollars by tax, to complete said building, and authorising the said commissioners to borrow from some of the funds of this State the sums directed by law to be raised for erecting such jail,

**RESPECTFULLY REPORT:**

That by an act passed 30th March, 1830, entitled "An act to provide for the erection of a new stone jail in the county of Cayuga," [Laws of 1830, page 128,] the board of supervisors of the county aforesaid, were directed to cause to be raised and collected, the sum of \$2,500, by a tax to be levied at their annual meeting in 1832, and the further sum of \$2,500 to be raised by a tax to be levied at their annual meeting in 1833, which sums were directed to be levied and collected for the erection of a new stone jail for said county. By the said act the petitioners were appointed commissioners to plan, devise, contract for, and superintend the building of the said jail until the same shall be completed. The said commissioners at the late annual meeting of the board of supervisors submitted to said board plans for the erection of said jail, and it was thereupon resolved by the board that application should be made at the present session of the Legislature for a law authorising them to raise by tax the additional sum of fifteen hundred dollars; and in case an alteration of the plan of such jail could be

[Senate, No. 13.]

made so as to furnish within the same, apartments for the keeper thereof, then the application should be made for authority to raise the sum of \$2,000.

These are the facts stated in the petition. The resolution of the board of supervisors, a copy of which is annexed to the petition, is somewhat ambiguous, inasmuch as it appears upon its face to warrant an application for authority to raise the sum of fifteen hundred dollars only. But the resolution limits the whole expense of building to \$7,000, while the sums directed by the act aforesaid to be raised, together with the sum of \$1,500 mentioned in the resolution, make the expense only \$8,500. The committee therefore consider the resolution as authorising the prayer for authority to raise \$2,000, being the additional sum necessary to be raised to build the jail upon the plan adopted by the commissioners with the approbation of the board. If there be any doubt upon this point, your committee have sufficient evidence to assure them that such is the construction of the resolution as understood by the board of supervisors themselves. This assurance they have from two of the members of the board now in the city, one of whom is a member of the Assembly, and the same assurance is given by the member of the Senate, and all the members of the Assembly from the county of Cayuga.

The petitioners further ask to borrow the sum of money directed to be raised from some of the public funds of this State. The whole sum directed to be raised including that which is the object of the present application, is \$7,000. Of this amount the commissioners will receive from the county treasurer in February next, the sum of \$2,500, so that there will be no necessity of a loan of so much of the means for building the jail. The remaining sum of \$4,500, should this application be granted, will be receivable by the county treasurer as follows: \$2,500 on the first Monday in February, 1834, and the remainder on the same day in the year 1835.

The committee are satisfied that an arrangement by which this amount could be anticipated by the commissioners, would enable them not only to expedite the work committed to their charge, but by putting it in their power to make the most economical contracts would be of great pecuniary advantage to the county. Under this impression, your committee have made inquiries as to the practicability and propriety of a loan by the State, and are authori-

sed by the gentleman now at the head of the Comptroller's department to state, that there remains now in the treasury uninvested, and belonging to the capital of the common school fund, the sum of \$28,048.94. That officer also states that he knows no objection to making the proposed loan. Your committee also are authorised by the late Comptroller, Mr. Wright, to say that he considers the proposed loan as an investment of which it is desirable that the State should avail itself, and that while he superintended the department, he always sought similar opportunities for investment. For the principles upon which such loan should be made, he referred the committee to an act making a similar loan to the county of Broome, passed in 1830. [Laws of 1830, page 18.]

The committee believe such loan would be advantageous to the county of Cayuga, and consistent with the best interests of the State, and beg leave to submit a bill in accordance with the views contained in this report.

All which is respectfully submitted.





**No. 14.**

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**IN SENATE,**

**January 9, 1833.**

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**REPORT**

**Of the Secretary of State in reference to the publication, in the several counties, of the amendments to the Constitution recommended by the Legislature of 1832.**

STATE OF NEW-YORK, }  
SECRETARY'S OFFICE, }

*Albany, January 8, 1833.*

The Secretary of State respectfully reports to the Legislature, that he has performed the duty enjoined upon him in regard to the three resolutions adopted by the Legislature of 1832, recommending amendments to the Constitution of this State. Copies of these several resolutions were transmitted for publication to each of the counties in the State, in which there was a newspaper printed, in time to be published three months previous to the last general election. The first of said resolutions is in the following words:

"STATE OF NEW-YORK, }  
"IN ASSEMBLY, February 10, 1832. }

*"Resolved,* That the following amendment to the Constitution of this State be proposed and referred to the Legislature next to be chosen, and that the Secretary of State cause the same to be published in one newspaper in each of the counties of this State, if there be one printed therein, for three months previous to the next annual election:

*"That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the Constitution of this State, may at any time hereafter be reduced*

by an act of the Legislature of this State, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section.

"And that so much of the said tenth section of the seventh article of the Constitution of this State as is inconsistent with this amendment, be abrogated.

"CHARLES L. LIVINGSTON, *Speaker*.

"Attest,

"FRANCIS SEGER, *Clerk*."

"STATE OF NEW-YORK. }  
"IN SENATE, February 24, 1832. }

"Resolved, That the Senate do agree to the said resolution, a majority of all the members elected to the Senate voting in favor thereof.

"EDWARD P. LIVINGSTON *Pres't*."

"Attest,

"JOHN F. BACON, *Clerk*."

I certify that affidavits of the publication of the foregoing resolution for three months previous to the annual election in November, 1832, have been received at the office of the Secretary of State, from the editors or publishers of newspapers in the following counties, viz:

Albany	county,	Albany Argus.
Allegany	"	Angelica Republican.
Broome	"	Broome County Courier.
Cattaraugus	"	Cattaraugus Freeman.
Cayuga	"	Cayuga Patriot.
Chautauque	"	Chautauque Republican.
Chenango	"	Norwich Journal.
Clinton	"	Plattsburgh Republican.
Columbia	"	Hudson Gazette.
Cortland	"	Cortland Advocate.
Delaware	"	Delaware Gazette.
Dutchess	"	Poughkeepsie Telegraph.
Erie	"	
Essex	"	Keeseville Herald.
Franklin	"	Franklin Republican.

Genesee	county,	Spirit of the Times.
Greene	"	Catskill Recorder.
Herkimer	"	Mohawk Courier.
Jefferson	"	Watertown Freeman.
Kings	"	
Lewis,	"	Lewis County Republican.
Livingston	"	Livingston Courier.
Madison	"	Observer and Recorder.
Monroe	"	
Montgomery	"	Johnstown Herald.
New-York	"	New-York Standard,
Niagara	"	Lockport Balance.
Oneida	"	
Onondaga	"	Onondaga Standard.
Ontario	"	
Orange	"	Independent Republican.
Orleans	"	Orleans Republican.
Oswego	"	Oswego Palladium.
Otsego	"	Freeman's Journal.
Putnam,	"	No paper published.
Queens	"	The Inquirer.
Rensselaer	"	
Richmond	"	
Rockland	"	No paper published,
Saratoga	"	Saratoga Sentinel.
Schenectady	"	Schenectady Whig.
Schoharie	"	
Seneca	"	Seneca Observer.
St. Lawrence	"	St. Lawrence Republican.
Steuben	"	Farmers' Advocate.
Suffolk	"	Republican Watchman.
Sullivan	"	Republican Watchman.
Tioga	"	
Totnpkins	"	Ithaca Journal.
Ulster	"	Ulster Sentinel.
Warren	"	Warren Messenger.
Washington	"	Sandy-Hill Herald.
Wayne,	"	Wayne Sentinel.
Westchester	"	Westchester Spy.
Yates	"	Penn-Yan Democrat.

The editors of the following papers have neglected to furnish proof of the publication of the foregoing resolution, although requested to do it immediately after the first Monday in November last, viz:

Erie	county,	Buffalo Republican.
Kings	"	Long-Island Patriot.
Monroe	"	Monroe Republican.
Oneida	"	Oneida Observer.
Ontario	"	Geneva Gazette.
Rensselaer	"	Troy Budget.
Richmond	"	Richmond County Republican.
Schoharie	"	Schoharie Republican.
Tioga	"	Owego Gazette.

A. C. FLAGG, *Secretary.*

The second resolution for amending the Constitution is in the following words, viz:

"STATE OF NEW-YORK, }  
"IN ASSEMBLY, February 10, 1832. }

"*Resolved*, That the following amendment to the Constitution of this State be proposed and referred to the Legislature next to be chosen, and that the Secretary of State cause the same to be published in one newspaper in each of the counties of this State, if there be one printed therein, for three months previous to the next annual election, in pursuance of the provisions of the first section of the eighth article of the said Constitution.

"At the end of the tenth section of the fourth article of the said Constitution, add the following words: "Except in the city of New-York, in which the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers.

"By order,

"CHARLES L. LIVINGSTON, *Speaker.*

"Attest,

"FRANCIS SEGER, *Clerk.*"

"STATE OF NEW-YORK, }  
IN SENATE, April 16, 1832. }

"*Resolved*, That the Senate do concur with the Assembly in said proposed amendment, a majority of all the members elected to the Senate voting in favor thereof.

"EDWARD P. LIVINGSTON, *Pres't.*

" Attest,

" JOHN F. BACON, *Clerk.*"

I certify that affidavits of the publication of the foregoing resolution, for three months previous to the annual election in November, 1832, have been received at the office of the Secretary of State, from the editors or publishers of newspapers in the following counties, to wit:

Albany	county,	Albany Argus.
Allegany	"	Angelica Republican.
Broome	"	Broome County Courier.
Cattaraugus	"	Cattaraugus Freeman,
Cayuga	"	Cayuga Patriot.
Chautauque	"	Chautauque Republican.
Chenango	"	Norwich Journal.
Clinton	"	Plattsburgh Republican.
Columbia	"	Hudson Gazette.
Cortland	"	Cortland Advocate.
Delaware	"	Delaware Gazette.
Dutchess	"	Poughkeepsie Telegraph.
Erie	"	
Essex	"	Keeseville Herald.
Franklin	"	Franklin Republican.
Genesee	"	Spirit of the Times.
Greene	"	Catskill Recorder.
Herkimer	"	Mohawk Courier.
Jefferson	"	Watertown Freeman.
Kings	"	
Lewis	"	Lewis County Republican.
Livingston	"	Livingston Courier.
Madison	"	Observer and Recorder.
Monroe	"	
Montgomery	"	Johnstown Herald.
New-York	"	New-York Standard.
Niagara	"	Lockport Balance.

Oneida	county,	
Onondaga	"	Onondaga Standard.
Ontario	"	
Orange	"	Independent Republican.
Orleans	"	Orleans Republican.
Oswego	"	Oswego Palladium.
Otsego	"	Freeman's Journal.
Putnam	"	no paper published.
Queens	"	The Inquirer.
Rensselaer	"	
Richmond	"	
Rockland	"	no paper published.
Saratoga	"	Saratoga Sentinel.
Schenectady	"	Schenectady Whig.
Schoharie	"	
Seneca	"	Seneca Observer.
St. Lawrence	"	St. Lawrence Republican.
Steuben	"	Farmer's Advocate.
Suffolk	"	Republican Watchman.
Sullivan	"	Republican Watchman.
Tioga	"	Elmira Gazette.
Tompkins	"	Ithaca Journal.
Ulster	"	Ulster Sentinel.
Warren	"	Warren Messenger.
Washington	"	Sandy-Hill Herald.
Wayne	"	Wayne Sentinel.
Westchester	"	Westchester Spy.
Yates	"	Penn-Yan Democrat.

The editors of the following papers have neglected to furnish affidavits of publication, to wit:

Erie	county,	Buffalo Republican.
Kings	"	Long Island Patriot.
Monroe	"	Monroe Republican.
Oneida	"	Oneida Observer.
Ontario	"	Geneva Gazette.
Rensselaer	"	Troy Budget.
Richmond	"	Richmond County Republican.
Schoharie	"	Schoharie Republican.

A. C. FLAGG, Sec'y.

The third resolution for amending the constitution is in the following words, to wit:

"STATE OF NEW-YORK. }  
" IN SENATE, April 16, 1832. }

" *Resolved*, That the following amendment be proposed to the Constitution, and that the same be referred to the Legislature next to be chosen, and that the Secretary of State cause the same to be published in one newspaper in each county in this State in which a newspaper shall be published, for three months previous to the next election.

" The duties on the manufacture of salt, as established by the act of the fifteenth of April, eighteen hundred and seventeen, or as may be established by any amendment to the Constitution, and the duties on goods sold at auction, as now established, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act, shall hereafter be and remain inviolably appropriated and applied to defraying the expenses of administering the government of this State; nor shall the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established as aforesaid, be at any time hereafter reduced or diverted from the aforesaid object, until the full and complete payment of the principal and interest of the money borrowed, to make and complete the Erie and Champlain canals.

" A majority of all the members elected to the Senate, voting in favor thereof.

" EDWARD P. LIVINGSTON, *Pres't.*

" Attest,

" JOHN F. BACON, *Clerk.*"

"STATE OF NEW-YORK, }  
" IN ASSEMBLY, April 25, 1832. }

" *Resolved*, That the Assembly do agree to the said amendment, a majority of all the members elected to the Assembly voting in favor thereof.

" CHARLES L. LIVINGSTON, *Speaker.*

" Attest,

" FRANCIS SEGER, *Clerk.*"

I certify, that affidavits of the publication of the foregoing resolution, for three months previous to the annual election in 1832,



have been received at the office of the Secretary of State from the editors or publishers of newspapers in the following counties, to wit:

Albany	county,	Albany Argus.
Allegany	"	Angelica Republican.
Broome	"	Broome County Courier.
Cattaraugus	"	Cattaraugus Freeman.
Cayuga	"	Cayuga Patriot.
Chautauque	"	Chautauque Republican.
Chenango	"	Norwich Journal.
Clinton	"	Plattsburgh Republican.
Columbia	"	Hudson Gazette.
Cortland	"	Cortland Advocate.
Delaware	"	Delaware Gazette.
Dutchess	"	Poughkeepsie Telegraph.
Erie	"	
Essex	"	Keeseville Herald.
Franklin	"	Franklin Republican.
Genesee	"	Spirit of the Times.
Greene	"	Catskill Recorder.
Herkimer	"	Mohawk Courier.
Jefferson	"	Watertown Freeman.
Kings	"	
Lewis	"	Lewis County Republican.
Livingston	"	Livingston Courier.
Madison	"	Observer and Recorder.
Monroe	"	
Montgomery	"	Johnstown Herald.
New-York	"	New-York Standard.
Niagara	"	Lockport Balance.
Oneida	"	
Onondaga	"	Onondaga Standard.
Ontario	"	Ontario Messenger.
Orange	"	Independent Republican.
Orleans	"	Orleans Republican.
Oswego	"	Oswego Palladium.
Otsego	"	Freeman's Journal.
Putnam	"	No paper published.
Queens	"	The Inquirer.
Rensselaer	"	
Richmond	"	

Rockland	county,	No paper published.
Saratoga	"	Saratoga Sentinel.
Schenectady	"	Schenectady Whig.
Schoharie	"	
Seneca	"	Seneca Observer.
St. Lawrence	"	St. Lawrence Republican.
Steuben	"	Farmers' Advocate.
Suffolk	"	Republican Watchman.
Sullivan	"	Republican Watchman.
Tioga	"	
Tompkins	"	Ithaca Journal.
Ulster	"	
Warren	"	Warren Messenger.
Washington	"	Sandy-Hill Herald.
Wayne	"	Western Argus.
Westchester	"	Westchester Spy.
Yates	"	Penn-Yan Democrat.

The editors of the following papers have neglected to furnish affidavits of the publication of the foregoing resolution, to wit:

Erie	county,	Buffalo Republican.
Kings	"	Long-Island Patriot.
Monroe	"	Monroe Republican.
Oneida	"	Oneida Observer.
Rensselaer	"	Troy Budget.
Schoharie	"	Schoharie Republican.
Tioga	"	Havana Observer.
Ulster	"	Ulster Plebeian.
Richmond	"	Richmond County Republican.

A. C. FLAGG,

*Secretary of State.*

The circular to the editors which accompanied the several resolutions, contained the following request: "The proposed amendments to the constitution, copies of which accompany this, you are requested to publish once a week, for three months, immediately preceding the next general election in this state. You will please send the first paper containing the resolutions to this office; and immediately after the first Monday in November, you are desired without fail, to send to this office an affidavit, that the resolution or resolutions have been published in your paper once in each week

for three months next preceding the annual election, giving a copy of the publication." In most cases, the papers containing the first insertion of the resolutions, were sent to this office; and in all cases, where the affidavits have been neglected, except in the case of the Oneida Observer, papers have been furnished containing the publication of the amendments, and which papers are herewith transmitted. A letter was addressed to Walker Todd, Esq. of Putnam county, inquiring whether any newspaper was published in that county. His answer will be found among the affidavits of publication, which affidavits are also herewith transmitted. A letter was addressed to the clerk of Rockland county, making a similar inquiry; the answer to this is also among the same papers.

A. C. FLAGG,

*Secretary of State.*

**No. 15.**

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**IN SENATE,**

**January 12, 1833.**

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**REPORT**

**Of the Secretary of State, in relation to the sale of  
the Revised Statutes.**

**STATE OF NEW-YORK, }  
SECRETARY'S OFFICE. }**

*Albany, January 12, 1833.*

The Secretary of State presented to the Legislatures of 1831 and 1832, statements in relation to the distribution and sale of the Revised Statutes, according to the provisions of the act passed December 10, 1828. These statements are among the Senate Documents, No. 22 of 1831, and 68 of 1832.

The report of 1832, p. 4, shows that the sales at this office, and for which payments had been made to the treasury and receipts taken therefor, then amounted to..... \$7,634 00  
The amount paid into the treasury since, for sales at  
this office, as may be seen by the statement A, an-  
nexed, is..... 1,841 50

**Making a total amount of sales at this office,..... \$9,475 50**

During the last summer a circular was sent to the treasurers of the several counties, requesting them to return the Statutes unsold, and to settle up and close their accounts. These officers have generally complied with the request; one hundred and fifty-eight sets have already been returned, making, with those previously received, 225 sets returned by county treasurers.

The report of last year, exhibited an aggregate amount paid by the county treasurers into the State treasury, of..... \$14,495 57  
There has been paid by the county treasurers since the  
last report,..... 1,164 00

[Senate, No. 15.]

The table marked B, is a statement of the accounts with the treasurers of the several counties; from which it will be seen that 2,048 sets of the Revised Statutes were sent to the county treasurers, which, at 10 dollars each set, amounts to 20,480 dollars: deduct 2,900 dollars for 290 sets unsold, and it leaves the amount of sales by the county treasurers, at..... \$17,550 00  
Deduct commissions on sales at 5 per cent,..... 844 50

And it leaves to be accounted for,..... \$16,705 50

There has actually been paid into the State treasury,

by the county treasurers,..... 15,773 07

Leaving still to be accounted for,..... \$932 43

Of this sum there is due from the late treasurer of Saratoga, who died insolvent,..... \$427 50

From the late treasurer of Washington, also insolvent,..... 247 00

Allowed for transportation,..... 4 18

There is due from treasurers which will be

paid, ..... 367 25

\$1,045 93

The sums paid into the State treasury are as follows:

By the Secretary of State, for sales at his office,..... \$9,475 50

By county treasurers for sales in the several counties, 15,773 07

Total paid into the treasury,..... \$25,248 57

To this may be added, as collectable, the sum due from

several county treasurers,..... 253 75

Making the total amount realized from sales,..... \$25,502 32

The Secretary of State would respectfully refer to the report of 1832, in relation to the condition of the accounts of the treasurers of Saratoga and Washington.

A. C. FLAGG.

## DOCUMENTS.

(A.)

*The following sums have been paid into the treasury for Revised Statutes, sold at this office, and receipts taken therefor.*

<i>No. of receipt.</i>	<i>Date of receipt.</i>	<i>Amount.</i>
From No. 1 to 46 inclusive, as reported in 1831,.....	Up to and including Janu- ary 27, 1831.	\$5,730 50
From No. 47 to 65 inclu- sive, as reported in 1832,	Up to and including March 1st, 1832.	1,903 50
66	April 4,                   “	95 50
67	“ 28,                   “	142 50
68	May 11,               “	116 50
69	“ 15,               “	38 00
70	July 5,               “	154 50
71	Aug. 22,           “	47 50
72	Sep. 8,             “	19 00
73	Oct. 11,           “	95 50
74	Nov. 18,           “	142 50
75	Jan. 7,             1833.	114 50
76	“ 11,             “	114 00
77	“ 11,             “	152 00
		<hr/>
78	Jan. 18,           1833,	\$8,866 00
79	“                   “	525 50
		84 00
		<hr/>
		\$9,475 50

The two last items have been paid into the treasury and added since this report was made to the Senate.

Of the Statutes, for which the above sums were received and paid into the treasury, 136 sets were sold to individuals, at ten dollars each set: and 852 sets were sold to booksellers and agents, deducting a commission of 5 per cent, as allowed by section 31, of the act of December 10, 1828. The account of sales stands thus:

138 sets, at 10 dollars a set, is..... \$1,380 00

852	"	"	"	.....	\$8,520 00
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Deduct 5 per cent com's on 852 sets, .....	426 00
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**And it leaves,..... \$8,094 00**

**\$9,474 00**

(B.)

A Table showing the sales of Revised Statutes, and payments made by County Treasurers.

COUNTIES.	Number of members.	No. of sets sent.	Total amount.	No. of sets unsold.	No. of sets sold.	Amount of sales.	5 per ct. commission.	Amount paid into the treasury.	No. of sets returned.	REMARKS.
Albany, .....	3	48	\$480 00	40	8	\$80 00	\$4 00	\$76 00	40	
Allegany, .....	1	16	160 00	3	13	130 00	6 50	123 00	3	50 cents paid for transportation.
Broome, .....	1	16	160 00	....	16	160 00	8 00	152 00	....	
Cattaraugus, .....	1	16	160 00	....	16	160 00	8 00	152 00	....	
Cayuga, .....	4	64	640 00	13	51	510 00	25 50	484 50	13	
Chautauque, .....	2	32	320 00	1	31	310 00	15 50	294 50	1	
Chenango, .....	3	48	480 00	19	29	290 00	14 50	275 32	19	18 cents paid for transportation.
Clinton, .....	1	16	160 00	....	16	160 00	8 00	152 00	....	
Columbia, .....	3	48	480 00	....	48	480 00	24 00	456 00	....	
Cortland, .....	2	32	320 00	11	21	210 00	10 50	199 50	11	
Delaware, .....	2	32	320 00	6	26	260 00	13 00	247 00	6	
Dutchess, .....	4	64	640 00	....	64	640 00	32 00	608 00	....	
Erie, .....	2	32	320 00	....	32	320 00	16 00	304 00	....	





COUNTIES.	Number of members.	No. of sets sent.	Total amount.	No. of sets unsold.	No. of sets sold.	Amount of sales.	5 per ct. commission.	Amount paid into the treasury.	No. of sets returned.	REMARKS.
Schoharie, .....	2	32	\$320 00	18	19	\$190 00	\$9 50	\$180 50	13	
Seneca, .....	2	32	320 00	1	31	310 00	15 50	293 50	1	\$1 all'd for transportation.
St. Lawrence, .....	2	32	320 00	....	32	320 00	16 00	304 00	....	
Steuben, .....	2	32	320 00	17	15	150 00	7 50	142 50	17	
Suffolk, .....	2	32	320 00	1	31	310 00	15 50	294 50	1	
Sullivan, .....	1	16	160 00	....	16	160 00	8 00	152 00	....	
Tioga, .....	2	32	320 00	....	32	320 00	16 00	304 00	....	
Tompkins, .....	3	48	480 00	5	43	430 00	21 50	372 00	5	\$36.50 due.
Ulster, .....	2	32	320 00	....	32	320 00	16 00	304 00	....	
Warren, ....	1	16	160 00	7	9	90 00	4 50	85 50	....	7 sets unaccounted for.
Washington, *.....	3	48	480 00	16	32	320 00	16 00	38 00	16	2 sets unaccounted for.

\* The old treasurer of Washington sold twenty-six sets of the Revised Statutes, and has not paid the money into the treasury. A new treasurer has been appointed, who has sold four sets of those delivered to him, and has paid the money into the treasury.

Wayne, .....	2	32	320 00	.....	32	320 00	16 00	304 00	.....
Westchester, .....	3	48	480 00	1	47	470 00	23 50	446 50	1
Yates, .....	1	16	160 00	....	16	160 00	8 00	152 00	....
	128	2,048	20,480 00	290	1755	17,550 00	844 50	15,773 07	225



**No. 16.**

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**IN SENATE,**

**January 12, 1833.**

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**REPORT**

**Of the Superintendent and Inspector of the Onondaga Salt Springs.**

**SUPERINTENDENT'S OFFICE, }**  
*Salina, January 9, 1833. }*

*To the President of the Senate.*

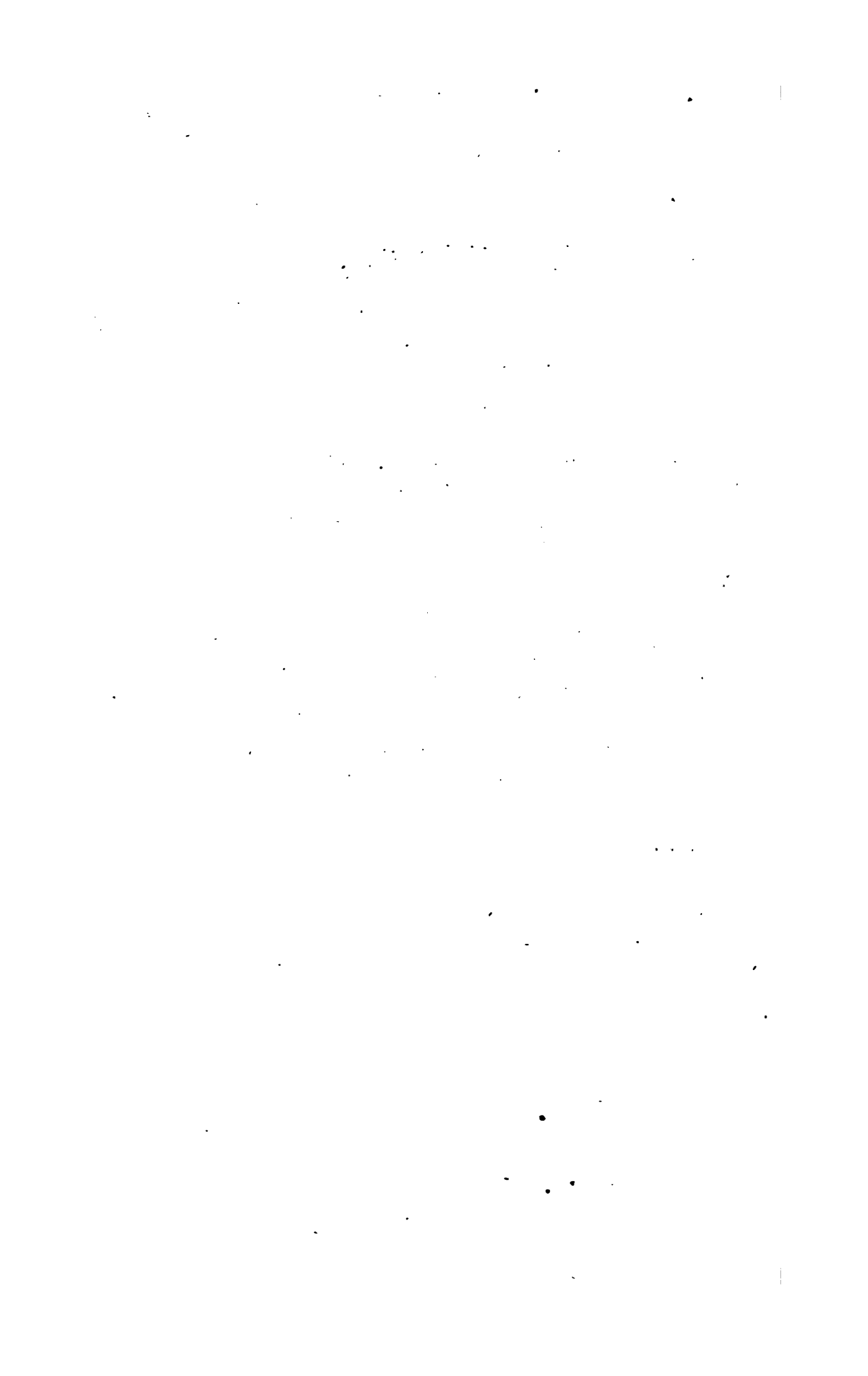
**SIR—**

I have the honor herewith to transmit to the Honorable the Senate, the annual report required from the Superintendent and Inspector of Salt in the county of Onondaga.

With respect,

I am your obd't. servant.

**NEHEMIAH H. EARLL.**



# REPORT, &c.

*To the Honorable the Legislature of the State of New-York.*

In obedience to the sixteenth section of Chapter ninth, Title tenth of part first of the Revised Statutes, the undersigned, the Superintendent and Inspector of the Salt Springs in the county of Onondaga, do

## RESPECTFULLY REPORT:

That during the year 1832, there has been 1,625,985 bushels of salt inspected in the town of Salina, as follows, to wit:

	<i>Bushels.</i>	<i>Bushels.</i>
In the village of Salina, of fine salt,	820,508 $\frac{1}{4}$	
“ “ coarse salt,	46,833 $\frac{1}{4}$	in all 866,836 $\frac{1}{4}$
“ Syracuse, of “ “	141,320 $\frac{1}{4}$	
“ “ fine “	49,838 $\frac{1}{4}$	in all 291,158 $\frac{1}{4}$
“ Liverpool, of “ “	.....	293,034 $\frac{1}{4}$
“ Geddes, of fine salt,.....	.....	201,956 $\frac{1}{4}$

The same was inspected during the year, in the several months in each village, to wit:

<i>Month.</i>	<i>Salina Village.</i>		<i>Liverpool Village.</i>		<i>Syracuse Village.</i>		<i>Geddes Village.</i>	
	<i>Bushels.</i>	<i>Lbs.</i>	<i>Bushels.</i>	<i>Lbs.</i>	<i>Bushels.</i>	<i>Lbs.</i>	<i>Bushels.</i>	<i>Lbs.</i>
January, ..	14,271	37	4,233	0	5,213	54	2,801	52
February, .	14,595	18	4,356	32	6,004	50	1,670	16
March, ....	3,618	6	3,817	44	1,589	18	2,375	10
April, .....	1,647	24	1,555	52	1,201	44	169	28
May, .....	59,654	41	31,867	32	8,047	6	19,614	33
June, .....	120,927	39	40,950	2	19,006	5	25,249	54
July, .....	116,322	38	40,353	34	18,362	33	28,143	
August, ...	117,461	44	32,667	12	33,684	52	36,343	8
September,	133,323	1	40,472	4	65,581	24	30,347	18
October, ...	122,209	25	39,464	4	78,628	48	34,982	44
November,	142,432	40	45,021	48	38,594	41	29,522	42
December, .	20,472	9	8,254	12	15,242	42	7,536	6
Total, ...	866,836	40	293,034	52	291,158	25	201,956	28

The manufactories are substantially the same as at the time of our last annual report, although there have been erected during the past year two or three new manufactories, and the same number have gone to decay.

The public works or pumps for the raising of salt water, are now in good repair in the village of Salina. The steam pump purchased of Joseph Jaquith and others, in the summer of 1831, was not required during the last summer by the State to raise water for the use of the village of Liverpool. In the fore part of the last season permission was given by the Superintendent to Messrs. Brown and Paddock, to occupy the same, for the purpose of making coarse salt, on their stipulating to surrender the possession thereof in as good repair as when by them taken, to the said Superintendent whenever requested. They made some improvements by adding some vats. Shortly after they put the works in operation, they had the misfortune to burst the steam boiler; in the bursting of which the small edifice in which it was placed was demolished. It is believed it will be unnecessary to rebuild the same, as the pumps at Salina are abundantly sufficient to raise the salt water or brine required for the villages of Salina, Liverpool and Syracuse.

In the month of May last, a contract was made to rebuild the water wheel, and to make the machinery for propelling the pump at the village of Geddes; the same is to be done on a more simple plan. It was expected that the materials would be prepared during the past summer, (which expectation has been realised,) and the work to be completed during the present winter, at a time less inconvenient for the manufacturers to suspend their operations, than any other season of the year. The mechanic, Mr. James J. Rice, is now engaged in completing the same, and it is confidently expected that it will be finished and again in operation previous to the first of March next.

The amount collected and now collecting for the raising of salt water during the past year, is \$3,305.97, and the amount expended during the same time in tending the pumps and keeping the same in repair, amounts to \$1,992.51, including the amount now expended in rebuilding the works at Geddes. The amount now paid Mr. Rice, on his contract for the said work at Geddes, being \$750.

NEHEMIAH H. EARLL.  
M. V. VLECK.

**No. 17.**

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**IN SENATE,**

**January 14, 1833.**

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**REPORT**

**Of the joint committee of the Senate and Assembly,  
on the New-Jersey boundary.**

The joint committee of the Senate and Assembly, to whom was referred so much of the message of his excellency the Governor, as relates to the disputed boundary between this State and the State of New-Jersey,

**REPORTED:**

That in the opinion of the committee, it is expedient that a law be passed, appointing three commissioners on the part of this State, to meet commissioners to be appointed by the Legislature of New-Jersey, in order to terminate the dispute pending between this State and the State of New-Jersey, in regard to her eastern boundary, with full powers to settle the same on equitable principles.

The acts of the commissioners, however, to be confirmed by the Legislatures of New-York and New-Jersey, before the same shall be binding on either party, in case the commissioners shall agree. The commissioners to report to the Legislature on the first Tuesday in January next.

The committee would respectfully refer the Legislature to a report made to the Assembly in 1827, which will be found in the Journals of that House, at p. 615. And also to a report made to the Senate in the same year by the chairman of the judiciary committee, which will be found in the Senate Journals at p. 165, as affording to the Legislature a full view of the whole case, and the necessity of legislative action, and also to the reports of the committee appointed by the act of 1827.



The committee are satisfied, that the Legislature of New-Jersey, now in session, will meet the overture of the State of New-York, in a spirit, which it is hoped will lead to a final adjustment of this vexed question, so peculiarly desirable between States, situated as they are, upon terms consistent with the honor of both; which your committee confidently believe may be effected by commissioners to be appointed by the respective States, without calling in question the title of either State, and without reference to former negotiations on the subject; and they have instructed their chairman to report by bill.

No. 18.

## IN SENATE,

January 14, 1833.

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### OPINION

**Of the Attorney-General on the eligibility of members of the Legislature to the office of Senator in the Congress of the United States.**

*Albany, January 12, 1833.*

**TO THE PRESIDENT OF THE SENATE:**

**SIR,**

In pursuance of a resolution of the Senate, I transmit herewith, an opinion upon the eligibility of a member of the Legislature, to the office of Senator in Congress.

I am, sir,

With great respect,

Your obedient servant,

**GREENE C. BRONSON.**



## REPORT, &c.

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The Attorney-General, in obedience to the resolution of the Senate, requiring "his opinion, whether under the Constitution of this State, a member of the Legislature is eligible to the office of Senator in the Congress of the United States," respectfully submits the following

### REPORT:

The President and Vice-President, and Senators and Representatives in the Congress of the United States, although appointed by the States, are officers of the general government. Those offices are created, their tenures declared, and the qualifications of the persons to fill them are prescribed, by the Constitution of the United States. That instrument also directs the manner in which those officers shall be elected or appointed. The President and Vice-President are to be chosen by electors, which "each State shall appoint in such manner as the Legislature thereof may direct." Senators are to be "chosen by the Legislature" in each State. Representatives are to be "chosen by the people." And "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." [Const. U. S. Art. I. Sec. I. to V. Art. II. Sec. I. Amendment XII.] Upon all those matters the Constitution of the State of New-York is silent, unless a provision hereafter to be noticed indirectly affects the qualifications of a Senator in Congress.

The Constitution of the United States declares that "no person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen." The question is, whether the Constitution of this State (supposing such a right to exist) has added to these 'disqualifications the further one, that the person shall not be a member of the State Legislature.

The only provision from which such a disqualification can be inferred, is the following: "No member of the Legislature, shall re-

ceive *any civil appointment* from the Governor and Senate, or from the Legislature, during the term for which he shall have been elected," [Const. N. Y. Art. I, Sec. X.].

There can be no doubt that the office of Senator in Congress, is a *civil office*; and the person to fill it is elected by *the Legislature*. Still it is believed that the words, "any civil appointment," were not intended to extend to the office of Senator in Congress.

*First*, The use of general words in the State Constitution in relation to offices and officers, broad enough in their signification to include officers of the general government, does not necessarily establish an intention to include such officers. On the contrary, several examples may be given, where general words must necessarily be restricted to offices created by or under the Constitution of this State. "*All officers* holding their offices during good behavior, may be removed by joint resolution of the two Houses of the Legislature." [Art. I, Sec. XIII.] The words "all officers" are sufficiently comprehensive to include the officers of the general government: and yet no one would think of removing the Judges of the Supreme Court of the United States by joint resolution of the two Houses of our Legislature. "The Governor shall nominate by message in writing, and with the consent of the Senate shall appoint, *all judicial officers*." [Art. IV. Sec. VII.] But this must be understood of judicial officers under the Constitution of this State. "No minister of the gospel—shall be eligible to, or capable of, holding *any civil or military office*, or place within this State." [Art. VII. Sec. IV.] This provision must be limited to offices under our Constitution, for there can be no doubt that a minister of the gospel may hold an office under the general government, the duties of which are to be discharged within the State of New-York.

The language in these several examples is as comprehensive as is that of the tenth section of the first article. Still the cases are not parallel; and the examples are only given for the purpose of showing that the words, "any civil appointment," do not necessarily evince an intention to exclude a member of the Legislature from the office of Senator in Congress.

*Second*. The office of Senator in Congress is not held by "appointment," but is conferred by *election*. Such is the uniform language of the Constitution of the United States; and it is applied alike to Senators and Representatives.

All legislative power is vested in "a Congress of the United States, which shall consist of a Senate and House of Representatives." "The House of Representatives shall be composed of members *chosen* every second year by the people of the several States." A representative must, "when *elected*, be an inhabitant of that State in which he shall be *chosen*." Senators are to be "*chosen* by the Legislature" of each State. When assembled, "in consequence of the first *election*, they shall be divided—into three classes—so that one-third may be *chosen* every third year," A Senator must, "when *elected*, be an inhabitant of that State for which he shall be *chosen*." "The times, places, and manner of holding *elections* for Senators and Representatives, shall be prescribed in each State by the Legislature thereof: but the Congress may at any time, by law, make or alter such regulations, except as to places of *choosing* Senators." "Each House shall be the judge of the *elections*, returns and qualifications of its own members." "No Senator or Representative shall, during the time for which he was *elected*." [Const. U. S. Art. I. Sec. I. to VI.]

All the laws passed in this State in relation to Senators in Congress, have adopted the same language. In July, 1789, a bill passed the two Houses of the Legislature, entitled "An act prescribing the manner of holding *elections* for senators to represent this State in the Senate of the United States." This bill was returned by the Council of Revision, with objections, and was lost. [Assembly Journal, 1789, p. 21.] The first act on this subject was passed in 1793, and is entitled "An act for prescribing the times, places and manner of holding *elections* for Senators to represent this State in the Congress of the United States of America." [3 Green. laws 21.] The act of 1801 was substantially like that of 1793. [1 R. L. 1801, p. 199.] This act was continued in the next revision of the laws. [1 R. L. 1813, p. 142.] In the Revised Statutes, the office of Senator in Congress is provided for in chapter VI. "Of *Elections*, other than for militia and town officers." Title VI. of that chapter is entitled "Of the *election* of Representatives in Congress, Electors of President and Vice President, and *Senators* in Congress." Article IV. is entitled "Of the *election* of Senators in Congress:" and it speaks of the time for which a Senator "was *elected*," and directs that "an *election* shall be held." In case of a vacancy, "another Senator shall be *elected* in his room." "Such *election* shall be made by the Legislature, in the following manner." [1 R. S. 136, 145, 146.]

This reference to the laws establishes, that the Legislature has always noticed, and followed the language of the Constitution of the United States in relation to the manner of filling the office. And it is not to be presumed, in the absence of all evidence of the fact, that the Convention, in deliberately settling the frame of our government, overlooked the Constitution of the United States, and the whole course of our legislation on this subject.

It is also worthy of remark, that a distinction is taken in the Constitution itself, between appointments and elections to office by the Legislature. "The Secretary of State, Comptroller, Treasurer, Attorney-General, Surveyor-General, and Commissary-General, shall be *appointed* as follows: the Senate and Assembly shall each openly nominate one person for the said offices respectively: After which they shall meet together, and if they shall agree in their nominations, the person so nominated shall be *appointed*." [Art. IV. Sec. VI.] "All votes for any *elective* office given by the Legislature or the people." [Art. V. Sec. VII.]

When, therefore, the framers of the Constitution in the section under consideration, speak of a "civil appointment from the Legislature," they must have intended the appointments which they had directed to be made in that form: and it would be going very far to say that it was also intended to exclude a member of the Legislature from the *elective* office of Senator in Congress.

*Third.* Whatever doubts may be entertained about the true construction of the tenth section when considered alone, the following section leaves little room for question, that the framers of the Constitution did not intend to disqualify a member of the Legislature from receiving the office of Senator in Congress. "No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the Legislature. And if any person shall, while a member of the Legislature, be elected to Congress, or appointed to any office civil or military under the government of the United States, his acceptance thereof shall vacate his seat." [Article I. Section XI.]

Although the words "member of Congress," and "elected to Congress," are in common parlance applied more particularly to Representatives, it has already been seen that in the Constitution of the United States, and the laws of this State, those words apply as

well to Senators as Representatives in Congress. "All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." "The Congress shall have power." "The House of Representatives shall be composed of members chosen every second year by the people." "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature."

There can be no room for doubt, that the constitutional meaning of the terms, "member of Congress," and "elected to Congress," will include Senators as well as Representatives; and they must in this place have been used in their legal, rather than in their popular sense. To suppose otherwise, and limit them to a Representative in Congress, will conduct us very nearly to an absurdity. Upon that construction, a Senator in Congress might hold a seat in the Legislature, while a Representative in Congress would be excluded. And under the latter branch of the section, the election of a member of the Legislature to the House of Representatives, and his acceptance of the office, would vacate his seat in the Legislature: while a member elected to the Senate of the United States might still retain his place in the Legislature.

If the language of the eleventh section applies as well to Senators as Representatives in Congress, then the Constitution, instead of disqualifying a member of the Legislature from receiving the office of Senator in Congress, supposes that he may be elected to that office; and declares that his acceptance "shall vacate his seat" in the Legislature.

Another question of some interest connected with this subject, is, whether a State has the power to add to the disqualifications for the offices of Senator and Representative in Congress, as prescribed by the Constitution of the United States. The Attorney-General commenced the examination of the question proposed by the Senate, with an impression against the existence of such a power. A contrary opinion from a source entitled to the highest consideration on all constitutional questions, has induced a doubt upon that point: and the view taken of our own Constitution has rendered it unnecessary at this time to decide the question. The opinion alluded to is contained in a letter from Mr. Jefferson to Joseph C. Ca-



bell, dated January 31, 1814. [Jefferson's Writings, Vol. 4, p. 238. Letter CXVIII.

The Attorney-General is of opinion, that "under the Constitution of this State, a member of the Legislature is eligible to the office of Senator in the Congress of the United States."

Respectfully submitted.

GREENE C. BRONSON,  
*Attorney-General.*

January 12, 1833.

**No. 19.**

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**IN SENATE,**

**January 12, 1833.**

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**REPORT**

**Of the Acting Comptroller relative to the Bank  
Fund.**

**COMPTROLLER'S OFFICE, }**  
*Albany, January 12th, 1833. }*

The **HON. JOHN TRACY,**  
*President of the Senate.*

**SIR,**

Herewith is transmitted a report, made in obedience to a resolution of the Honorable the Senate of the 11th instant.

I have the honor to be,

With great respect,

Your ob't. serv't.

**PHILIP PHELPS.**

*Acting Comptroller.*

[**Senate, No. 19.**]



## REPORT, &c.

STATE OF NEW-YORK, }  
COMPTROLLER'S OFFICE. }

In obedience to a resolution of the Honorable Senate in the following words,

*In Senate, Jan. 11th, 1833.*

*"Resolved, That the Acting Comptroller do report to the Senate the whole amount of the moneys paid by the banks respectively to the Bank Fund, together with the amount of the sums which may have been already received into the treasury on account of income thereon, and the total sums which have been paid for salaries to the Bank Commissioners, from the passage of the law in 1829, to the present time,"*

The Acting Comptroller respectfully reports:-

That the annexed statement exhibits in an alphabetical arrangement of the counties, the names of the several banks which have contributed to the Bank Fund, the amount of the capital upon which, and the respective periods for which such contributions have been made.

It will be perceived from this statement that \$178,974.97, has been paid into the treasury for account of this fund since the passage of the law instituting the same.

The sums which have been received into the treasury on account of income, amount to \$1,707.21.

The total sums which have been paid for salaries to the Bank Commissioners, are as follows:

To George R. Davis, .....	\$2,250 00
Charles Stebbins, .....	2,350 00
James Rees, .....	967 81
Lewis Eaton, .....	1,281 16
	<hr/>
	\$6,748 97

All which is respectfully submitted,

PHILIP PHELPS,

*Acting Comptroller.*

*Dated Albany, Jan. 12th, 1833.*



r.  
15 days.  
and 18 days.

r.  
and 15 days.  
nd 15 days.  
nd 11 days.  
nd 12 days.  
nd 11 days.  
nd 12 days.



**No. 20.**

**IN SENATE,**

**January 14, 1833.**

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**ANNUAL REPORT**

**Of the Inspectors of the Auburn State-Prison.**

**AUBURN STATE-PRISON, }**  
**January 8, 1833. }**

*To the Honorable the Legislature of the State of New-York.*

In obedience to part 4th, chapter 3d, title 2d, article 1st, section 10th of the Revised Statutes, the undersigned, Inspectors of the State-Prison at Auburn,

**RESPECTFULLY REPORT:**

That the state and condition of the prison has been, for the past year, highly prosperous. Nothing has occurred, that has come to the knowledge of the Inspectors, to impair the good order, correct and humane discipline, and perfect subordination, and willing industry, heretofore so noticeable in this prison. The officers have, with hardly an exception, conducted themselves with great fidelity to the important trust committed to their management; and have been very successful in promoting industry among the convicts.

The general health of the convicts has been remarkably good, and is believed to be equal at least, to that of other citizens generally. For particular information on this subject we refer to the report of the physician to the prison, which is herewith presented.

In respect to the moral state of the convicts, and the means employed to enlighten and reform their moral feelings, we could not give more full and satisfactory information, than is contained in the report made to us by the chaplain of the prison, which is herewith communicated to the Legislature.



Table number 4, accompanying this report, shows that there remained in this prison at the commencement of the past year, 646 convicts; and table number 1, shows the number received during the year, to have been 192; and specifies their crimes, the counties where convicted, where they were born, and the terms of their sentences. Of this number 60 were received in May last from the Sing-Sing prison, by the order of his Excellency the Governor.

During the past year 115 (Table No. 3,) have been discharged by expiration of sentence, 27 (Table No. 2,) by pardon, and by order of the supreme court, and 12 by death, making in all, 155, and the number remaining on the 1st instant, was 683. Table number 4 also exhibits the different occupations in which the convicts are employed, the number employed in each branch of business, the number at work on contracts, and from whose labor alone the prison is supported, the number at work in the employment of the State, and invalids.

Including those brought from Sing-Sing, the number of convicts in this prison, has increased during the last year 27; but excluding those, there has been a decrease of 23. But by a law of the last session of the Legislature, the territory from which convicts are sent to this prison, has been enlarged, so as now to embrace five out of the eight Senate districts; which law went into practical operation about the time that the said convicts from the Sing-Sing prison were received. Since that time the number of convicts in this prison has gradually increased from 666, to the present number, 683. It appears to us, therefore, highly probable, that with the present territory, there will be a gradual increase of convicts at this prison.

The earnings of the convicts for the year ending on the 30th day of September last, and which have been charged to contractors, amount to.....	\$37,951 26
The earnings of convicts, not employed by contractors, as charged to individuals, and cash received from visitors, and for articles sold, and other incidental sources, amount to.....	3,862 21
The earnings and profits of the prison as above, for the past year, amount to.....	\$41,833 47
Carried forward,.....	\$41,833 47

Brought forward, .....	\$41,533 47
The expenditures during the same period, for the general support of the prison, and which includes all expenses, except those authorized by the act of the 25th April, 1832, for building 220 cells, amounts to..	\$38,305 31
Leaving a balance in favor of the prison, of.....	<u>\$3,528 16</u>

A statement of the monthly earnings of convicts employed by contractors, and the earnings for the year, of such as are not employed by contractors, and the receipts of money from visitors, and for the property sold, &c., showing the particulars from which the profits to the prison have been derived, is hereunto annexed, marked number 6.

In addition to the above balance of \$3,528.16 in favor of the prison; the institution should be credited with the expense of keeping, feeding, and clothing, about an average number of 100 convicts, who have been employed, since about the 1st of June last, in building the new cells, and whose labor has in no respect been taken into the account of profit to the prison; and also the expense of building a shop, 100 feet by 40, occupied by stone cutters, coopers, &c., and supposed to have cost about \$800; and which is included in the expense of the general support of the prison.

The cash receipts during the year ending September 30th, 1832, have been as follows:

The balance in the hands of the agent on the 30th September, 1831, .....	\$14,208 99
The amount directed to be charged to the agent, per act 25th April, 1832, .....	347 00
The amount received from all prison sources, .....	<u>37,346 50</u>
	<u>\$51,904 50</u>

The particular sources from which this sum has been received, will be found specified in the agent's monthly returns, and annual statement herewith transmitted, pursuant to the act of the 25th April, 1832, marked numbers 7 to 19, inclusive.

Carried forward, .....	<u>\$51,904 50</u>
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Brought forward,..... \$51,804 58

The *expenditures* during the same period have been  
as follows:

For general support, and ordinary repairs,	
as above,.....	\$38,305 31
For building 220 cells,.....	10,004 27
Add amount directed to be credited to the	
agent, per act of 25th April, 1882,.....	525 93
	<hr/> \$48,905 51
Which taken from the receipts as above, leaves in	
money in the hands of the agent,.....	\$2,899 07.

The particular items of the expenditures will be found in statements marked numbers 7 to 19, inclusive.

The difference between the earnings and profits of the prison as before stated, and the amount of receipts from all the prison sources, during the said year, consists of outstanding credits to the contractors and others, all or the greater part of which is believed to be good, and will be collected as they fall due.

By the act entitled "An act in relation to state-prisons," passed April 25, 1882, it was made the duty of the agent of this prison, under the direction of the inspectors, to construct two hundred and twenty additional solitary cells in the prison; and the sum of six thousand dollars was appropriated for that purpose. But the act directed that the same should not be drawn from the treasury, until the moneys which might be in the hands of the agent, should have been expended and accounted for to the Comptroller. Still the act made no direct appropriation of the money in the hands of the agent for the purpose of constructing said cells; but as the Legislature seemed to assume the right of the agent to make use of these moneys for that purpose, we proceeded to adopt a plan for and to erect the additional cells. The south wing of the prison was originally built with the cells against the walls, with the passage through the centre. We determined to build the new cells in a block in the centre, similar to those in the north wing, but it was found that the width between the outer walls of the wing was insufficient for that purpose. We therefore removed the north wall of the south wing, for the distance to be occupied with the new cells; and built a new wall giving an additional width of twelve feet to the building. The agent under our direction, has built

220 solitary cells, and the outer wall; and a covering of the cells below the roof, of stone, lime, sand and loam, which is to be fire proof; and also a new roof. The cells are built with posts of cut gray limestone; and iron doors, wholly grated. There is no wood used in or about the cells, except the floor of the galleries, which are two feet nine inches in width, in front of the cells. These floors are supported by cast iron anchors, worked into the piers of the cells, and have iron hand railings. The stairs are supported upon wrought iron risers, which rest upon wrought iron anchors, worked into the wall like those which support the galleries. The locks of the cells, (which were manufactured in the prison,) are let into the stone fronts, and made secure there with bolts. There are twenty-two cells in length on each side, and they rise five stories in height. The cells in the inside are seven feet in length, by three feet six inches in width, and seven feet in height, and are well ventilated. The area, or distance between the cells and outer wall is thirteen feet; and over this area are constructed ample ventilators through the covering leading through the roof. The area is wholly flagged with cut stone. The labor of removing the materials of the old cells, and north wall, was very great; and employed at least forty convicts for two months.

The cells and building are all completed, and were occupied by the convicts on the first instant. A detailed statement of the money expended under the said act is herewith communicated, and is contained in statement marked number 20. There are probably some small bills belonging to this head, not yet presented and paid, but which will not exceed one hundred dollars. The whole expense of building the 220 cells, under said act, and of completing that part of the south wing, as will be seen by reference to statement number 20, is \$12,376.36. It will be observed that the expense is within the estimate presented to the last Legislature; and when it is considered that no labor or expense has been spared to make the cells secure and permanent, and when the great amount of labor, necessary to prepare the stone and other materials used in the building; and the extent of the erection, are also taken into the account, we feel constrained to say, that no erection of the kind, and of such an extent, has ever been built in this country, at so small an expense. This result is in a great measure to be attributed to the uncommon, and unremitting exertions, perseverance, and good management, of the agent and other officers of the prison,

who have had the immediate superintendence of the building operations.

We are gratified to have it in our power to state, that the whole expense has been met by the funds which had accumulated in the hands of the Agent, and that the appropriation of \$6,000, made by the said act, for the purpose of this erection, remains untouched in the treasury of the state.

That part of the south wing of the prison, containing the new cells, is now connected with the remaining part in a temporary manner; and in order to secure the same properly, it will be necessary to continue the north wall of this wing on the same line, to the front building; and also to continue the roof over the remaining part of the wing. The present roof is poor and leaky, and if the building is permitted to remain as it now is, will require extensive repairs. In making the present alterations, it became necessary to destroy the former chapel; and a temporary chapel was prepared in the south front of the prison. The mess room, which occupies the basement of the remaining part of the south wing, is already too small for present accommodation. By widening this part of the wing, this room will be much enlarged, and will, it is believed, be sufficient to accommodate all the convicts that can be lodged in the cells of the prison. It is necessary to make some arrangement for a permanent and suitable chapel, and such an one may be built over the mess room, when enlarged. We would therefore recommend that a law be passed, authorizing the Agent, under the direction of the Inspectors, to make the proposed alteration. From rough estimates furnished us, we are induced to believe, that the expense will not exceed six thousand dollars: to meet this expense we ask for no appropriation from the State. The money now in the hands of the Agent, and that which may be calculated upon from the sources of the prison, and that which will probably be realised in the course of the current year, we are satisfied will defray this expense. We consider this further alteration and improvement indispensable to the security of the building, and for the accommodation of the convicts, in respect to the mess room, chapel, &c. And as the expense may now be met by the avails of the prison, we can perceive no object in its delay.

By reference to statement marked number 21, herewith sent, the various branches of business in which the convicts are employed, the

number engaged in each branch, and the amount earned in each branch of business, will be found exhibited.

The alteration made in the south wing of the prison destroyed the room in which the female convicts had, before that time, been confined. Their situation in that room, the only place in the prison where they could at that time well be kept, was deplorable enough; and was a standing call on the humanity and wisdom of the Legislature for relief. The preparation made for a temporary chapel, by taking away some partition walls in the south front of the prison, gave us an opportunity of providing the females with a more airy and convenient place for working during the day; and at night they were confined in four large cells in the south wing, over the mess room. But this arrangement, indispensable and absolutely demanded as it was, by every feeling of regard to their health and comfort, could not be effected, without engaging the services of a matron to superintend them in their employment during the day. Under these circumstances we determined, although the law had made no provisions for paying a female keeper, that it was expedient to engage one. We accordingly directed the Agent to hire a matron to take the charge of the female convicts; which he did, from the 26th of June last, for the compensation of \$16 per month. The success of this new arrangement has been gratifying. The appearance, manners, industry and health of the females has evidently improved.

But we must be permitted to renew the request that has been so often made, by the Inspectors of this prison, that the Legislature would make provision for the confinement of female convicts at some other place than within the walls of this prison. The present arrangement for their confinement and working, is but temporary; and even this could not be continued, if the proposed improvement should be authorised. The particular reasons which render it inexpedient, and in our view improper, to confine females in this prison, have been so fully expressed in the last report, from the Inspectors to the Legislature; and are so forcibly stated in the report of the chaplain to us of this year, and which is herewith sent, that we deem it unnecessary to dwell longer upon the subject.

By the tenth section of the aforesaid act, it is made the duty of the Inspectors of this prison to furnish to the Legislature, with our annual report, copies of the monthly returns, made to us on oath,

by the Agent. They are herewith sent, marked numbers 7 to 18 inclusive. And by the terms of the same section we are required to furnish a list of all contracts entered into, by which the convicts are employed, setting forth the portion of the same that may have been finished during the year, &c. It would appear by the phraseology of this part of that section, that its application was not meant for this prison; for, to require us to state what portion of the contracts have been *finished* during the year, is not requiring a statement of any thing that takes place in this prison. The contracts made for the labor of convicts at this prison are for a *daily* compensation, for a specified period of time; or for payment of a stipulated sum for the manufacture of each article made, and for a specified period of time. As it respects the sums of money received upon the contracts for labor, they are contained in the monthly returns herewith sent, numbers marked 7 to 18 inclusive.

All which is respectfully submitted.

HORACE HILLS,  
JOHN PORTER,  
E. WILLIAMS,  
HERVEY HINMAN,  
BRADLEY TUTTLE,

*Inspectors.*

## DOCUMENTS.

### REPORT

#### Of the Physician of the State Prison, for the year 1832.

*To the Inspectors of the State Prison, Auburn.*

GENTLEMEN,

In presenting to the Board the health of the convicts for the year ending December 31st, 1832, it is worthy of observation, that, (notwithstanding the threatening aspect during the summer,) the average of sick confined to the hospital during the year does not vary materially from former seasons: The *character* of the disease was, however, essentially changed during the summer months.

Early in the month of July, there was an uncommon tendency to the derangement of the stomach and bowels. In some there was obstinate constipation of the bowels; in others too great looseness, and several cases of *cholera morbus* occurred; but without any thing strikingly peculiar in the attack, progress or termination. This condition of the system did not exist long, before there seemed an universal predisposition to watery diarrhœa with whiteness of the tongue, but very little disturbance in the circulation. About the 10th of August, disease assumed a distinctiveness of character, differing essentially from any thing in the form of disease that had at any time come under my observation. The pale face and shrunken features, cool and clammy skin, a peculiar whiteness of the tongue, the shrivelled skin over the ends of the fingers and toes, tenderness over the abdominal region, and at the pit of the stomach, nausea, vomiting, &c. too plainly indicated the character of the disease with which we had to contend. Its identity with the fatal epidemic which has spread consternation and desolation over the fairest portions of the civilized world, could not be mistaken even by the common observer who had read the characteristic symptoms of that disease.

In escaping the fatality which has marked this pestilence in its progress in nearly every place where it has appeared, I consider we owe much to the vigilance of the *prison officers*; the increased attention to cleanliness and ventilation; the uniform, regular and *accustomed diet*; the immediate report to the hospital of such as were even slightly indisposed, afforded advantages in contracting the disease, which could scarcely have been enjoyed in private



practice. The delay of a few hours might, and unquestionably would, have rendered in many cases, the application of means entirely unavailing.

In the greatly increased responsibilities of my situation during that period, I feel under great obligations to the *Board of Inspectors*, for the promptness with which every facility was placed at my disposal, that could aid me in my professional duties.

The average number of hospital cases per day for each month, is as follows:

January, .....	5
February, .....	4
March, .....	12
April, .....	9
May, .....	7
June, .....	7
July, .....	4
August, .....	6
September, .....	6
October, .....	7
November, .....	10
December, .....	7

The whole that received prescription, embracing those discharged with those retained in the hospital, would average for the year, about 2½ per cent a day.

The months of July, August, and September, show a higher number on the sick list than any other months, and a diminished number of cases confined to the hospital.

The average per day that received prescription during the above months is as follows:

July.....	19
August, .....	21
September, .....	20

*The deaths are as follows :*

NAME.	Age.	Time of death.	Condition when received.	Disease.
Campbell,...	23	February 1, ....		
Geo. Terry, ....	45	" 7, ....	Diseased, .....	Inflammation of brain.
Jno. E. Bush, ....	26	" 17, ....	" .....	Consumption.
Jno. Gaylord, ....	21	March 16, ....	" .....	Chronic inflammation of brain.
Geo. Lawrence, ....	45	April 6, ....	" .....	Consumption.
*Charlotte Harp, ....	24	" 16, ....	Locally diseased, .....	"
Rich. Brown, ....	49	June 16, ....	Healthy in 9 years, .....	Fever.
Whiting Bennett, ....	34	" 28, ....	Diseased, .....	Consumption.
Robt. Gilmon, ....	23	July 15, ....	" .....	"
E. Brown, ....	18	August 31, ....	Diseased, .....	"
Thos. Ricket, ....	53	October 3, ....	" .....	"
Felix Cumming, ....	23	December 5, ....	" .....	"

\* Died of fever, consequent upon a severe operation.

Respectfully submitted.  
JNO. GEO. MORGAN,  
*Visiting Physician.*

*January 1, 1833.*

## Report of the Chaplain.

*To the Inspectors of the State Prison, Auburn.*

GENTLEMEN,

Though it is not required of the resident chaplain of the prison, by any formal resolution of your Board, to make an annual report, it seems obviously proper, as he holds his relation to the institution by your appointment, and under the patronage of the State, that he should from time to time give some account of the nature and results of his labors. It is under this impression that I present to the Board the following remarks and statements relating to the interesting and important department which is confided to my care.

To enable the Board to form an adequate estimate of the need and utility of labor in this department, it would be requisite to give a full and particular view of the character, habits, and propensities of the convicts, previous to their conviction, and to show the tendency and actual effects of moral culture upon their feelings and conduct while under instruction, and after they leave the prison. I need not say that this is, to a great extent, entirely impracticable. Some prominent and striking facts may be presented; but it must be obvious that, in the main, I can speak only in general terms, and merely give my own conclusions, without going into a detail of the facts from which those conclusions are drawn.

The fact, which, of all others, is the most striking to a person conversant with the religious history of convicts, is that of their great and general *ignorance of the Bible*—and consequently of the nature of the relations which they sustain to God and to their fellow-men, and of the obligations which arise out of those relations. Without mentioning particular instances of this ignorance, which would scarcely be credited, it is sufficient to remark, that many, upon being questioned, have betrayed their inability to name any one of the books or parts of which the Bible is composed; and expressions of surprise at finding it to be such a book as it is, are so common as to be very remarkable. The following extract from the account which one gave of himself a few days since at the time of his discharge, is but the history of the former character and feelings of a large portion of the men who are brought to this prison. It is the substance of his answer to a question respecting his education, and in nearly his own words: "Says he has got all his religious instruction in this prison—never took a Bible into his hand before—had none at home—despised it—for some time after he came here, used to put his Bible out of sight when he went into his cell—could not bear to see it—got his dislike of it among his old associates, who were always ridiculing it and those who believed in it—hated the sight of a christian, and thought a minister as bad as the devil—whenever they talked to him, he used to swear at them—was the means of leading his young brother (convicted with him at the age of 15,) in the same way. Says he shall always be thankful that he was brought to this prison."

In all such cases of ignorance or neglect of the Bible, it has been found, as a matter of course, that the Sabbath has been habitually disregarded and profaned. And it were well if the habitual violation of this sacred institution were confined to such cases only.

It is not however to be denied, that there are many, too many, among this guilty and degraded class of men, who have broken through all the restraints of a religious education, and urged their way to prison against all the powerful motives presented to their minds in the Bible; but they are *so few*, compared with those who have been brought up without instruction in the great doctrines and duties of religion, that the observer cannot fail to be struck with the disparity, or to see in it a direct and conclusive proof of the salutary influence of the holy scriptures, and of the importance of their universal diffusion and inculcation.

It is gratifying to be able to add, in corroboration of the same point, that, of more than two thousand convicts who have been sentenced to this prison, only two or three are known to have previously received instruction in Sabbath schools.

Another fact, little less remarkable, respecting this class of men, is their general *ignorance of letters*. Since the establishment of our prison Sabbath school, nearly seven years since, about five hundred and fifty convicts have been brought into it for instruction.—Of these, a great majority could read only in the easiest reading lessons, by spelling many of the words; and more than one hundred commenced with the alphabet. They were selected, it is true, (from the younger portion of the convicts,) on account of their illiterateness; but yet it is clear, from this statement, that the education of these men, as a class, is far inferior to that of our citizens generally. The pupils in our school are, almost exclusively, between the ages of 18 and 30; and the whole number, of all ages, from which they have been selected, is not more than 1640—550 = 1090. The proportion of illiterate men above the age of 30 is at least equal—few, if any, of whom it will be observed, have been brought into this account. For the honor of our country, it is to be hoped that no spot can be found exhibiting such a proportion of men so illiterate, between the ages of 18 and 30, compared with the whole population above the age of 18. Where is the community whose every eleventh adult, even of the whole population, has yet to learn the letters of the alphabet?

Another fact, which, though already notorious, is worthy of repetition here, is the remarkable *prevalence of intemperance* among this class of men. It will be seen in a striking light in the following statement. The number of convicts now in this prison is 683—of whom there had been,

Grossly intemperate, .....	230
Moderately intemperate, (regular drinking, and occasional intoxication, or either,) .....	278
Temperate drinkers, .....	156
Total abstinent, or nearly so, .....	19
	<hr/>
	683
	<hr/>

The first two classes, making 508, or nearly three-fourths of the whole number, may with propriety be accounted intemperate. Of these, 385 were under the influence of ardent spirits at the time they committed their crimes; and of the whole number, 212 have acknowledged that either one or both of their parents, or their masters, were more or less intemperate.

Multitudes of facts like these most fully attest, that intemperance is the great and overflowing source of crime in our land; and, after what I have seen in this prison, I cannot doubt, that the decrease of criminal convictions will almost keep pace with the progress of temperance, nor that its universal reign would, in the end, well nigh depopulate our prisons. To what cause but the temperance reform is it to be ascribed, that the number of State-prison convictions in this State, during the year 1832, is nearly a hundred less than that of the preceding year?

Is not the *proportion of unmarried convicts*, also worthy of remark? It would be an interesting subject of inquiry, and perhaps lead to some important conclusions, to ascertain and compare this proportion between married and unmarried adults in the community at large. I have not the means at hand of ascertaining the proportion of marriages among the latter, but give that of the former in this prison, to enable any one who may be curious enough to prosecute the inquiry.

Married convicts,.....	364
Unmarried do .....	319

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683

Instances of separation between husband and wife, by desertion, previous to conviction, 62—by death, 38.

Is not this proportion of unmarried men in prison, much greater than that of the unmarried to the married among our adult male population in general? And if so, what is the inference respecting any doctrines tending to repudiate a certain "arbitrary custom" that prevails in society "under its present organization?"

The married convicts left, under age, 901 children:—

With a competence for their support,.....	223	} 901
Without property of any amount,.....	678	
Among relatives who could assist them,....	160	
Without property or assistance of friends..	498	

The resident chaplain's weekly routine of duties is too well known to need now to be particularly described. The most prominent are, the general superintendence of the Sabbath school, the public exercises of the chapel, and the private instructions at the cells, on the Sabbath, and the daily evening devotions in front of the cells, and the visiting of the hospital, during the week.

Of the manner in which these and the various other duties have been performed, it does not become me to speak. I trust, however, I shall be indulged in saying, that, in all my instructions and admonitions to the convicts, I have *dealt plainly with them*. I have dwelt, emphatically, upon their depravity and guilt in trampling upon the laws of God and of their country; endeavored to awaken

remorse in their consciences, to convince them of the justice of their punishment, to induce them to yield strict and humble obedience to all the regulations of the prison, to press home upon them the duty of immediate repentance and amendment, and to persuade them to take refuge in the mercy of Him who says, "Let the wicked forsake his way, and the unrighteous man his thoughts, and let him return unto the Lord, and he will have mercy upon him, and to our God, for he will abundantly pardon."

Great pains have also been taken to dissuade them from the future use of ardent spirits, by portraying the ruinous effects of intemperance, as exhibited in their own wretched condition, and that of their distressed families and friends, and by giving them appropriate tracts, and frequently reading the best essays on the subject in the chapel.

The Sabbath school still proves to be a very important and efficient auxiliary to the labors of the chaplain. During the past year it has consisted of about two hundred pupils, under the immediate instruction of thirty-five of the students of the theological seminary, whose benevolent, discreet and zealous efforts for the benefit of these men, deserve the highest commendation. The primary object of the school is to instruct the illiterate to read; but in doing this, the teachers avail themselves of the opportunity of dropping useful incidental remarks, and of making such explanations and applications of the great truths of the Bible, as are calculated to enlighten the understanding and affect the heart. The happy tendency of this system of instruction is clearly apparent, not only in the remarkable progress of most of the scholars in reading and religious knowledge, but also in their more ready and cheerful compliance with the rules of the prison, and, as we trust, in some instances of that moral transformation which is the surest pledge of a virtuous life here, and the only ground of hope for the future.

And what has been said of the apparent influence of the Sabbath school instruction, may, if I mistake not, be said also of the other modes of instruction. The convicts in general appear to be affected in view of divine truth. Their fixed attention, and often their deep solemnity, during the public exercises of the Sabbath, as well as the impressive stillness of the hour for evening devotions, is a subject of general remark. In private conversation, after the first few interviews, they manifest, almost without exception, a kind, tender, subdued state of feeling, and not merely a willingness, but more or less eagerness, to receive instruction. And it is so common to hear them, with bursting tears, utter expressions of gratitude that they were arrested in their infatuated career, and lodged in the State-prison, that it has almost ceased to be remarkable. We do not dream, that the hopes which such appearances are calculated to awaken, will always or even generally be realized; but that they have been, in many instances, we have the most satisfactory testimony. We have documents to show that a great number who were once convicts in this prison, are now useful and respectable citizens. It is known, also, that not a few of them, in

various parts of the country, are consistent professors of religion, and that several are exemplary members of churches in our own village.

Let me here disclaim any intention of arrogating to our system of moral and religious instruction, simply, and independently, all or any of the merit of working such changes in the feelings and conduct of such men. Under a system of unrestrained association and intercourse among them, it would, I have no doubt, prove to be utterly inefficient. Its success depends upon the rigid enforcement of such a system of discipline as your Board have adopted in this institution. Confident as I am, that your system of physical coercion and discipline, merely, without its accompaniment of moral motives, would only make bad men worse, I am no less confident that without such a system of strict seclusion and non-intercourse, religious motives would have no power to make bad men better. Of this I have been more fully convinced than ever, since our number of convicts became so large as to make it necessary to confine several together at night, in each of our large cells. The mischievous effects of this association, partial as it was, have been plainly perceptible, not only upon those convicts themselves, but upon others with whom they have labored by day. But I rejoice to find that this evil is entirely remedied now, by the completion of the new and admirable block of cells in the south wing.

It gives me the sincerest pleasure, too, that your Board will be able to represent to the Legislature a great improvement in the condition of the female department. Since it has been under the superintendence of our pious and capable matron, by day, with the means of a partial separation, or rather classification, at night, the appearance and conduct of these females have certainly been very strikingly improved. We are no longer disturbed by their boisterous mirth, their infuriate shrieks, their shocking oaths, or the sound of the missile brick-bat. We hear no more the clank of their chains, nor see upon their faces the marks of savage combat. With only an occasional exception, all now is silence, order, neatness, and cheerful industry. It is truly surprising, that the presence of a matron, under all the disadvantages which must be encountered in apartments so ill adapted to the purpose, should ever have wrought so great a change.

But after all, I must be permitted to say, that, should this improvement of our female department be the occasion of relaxing the efforts of your Board, or of delaying the action of the Legislature, on the subject of building a new prison for females, I should, on the whole, regard it as a most unfortunate and calamitous step. The Board need not be told, that this department is still extremely incommodious, and that it *never can be fitted* in such a manner as to be at all suitable for the permanent confinement of females. The apartments are too small for even the present number of inmates, badly arranged, difficult of access, and so situate, in the third story, as to require the help of male convicts in carrying every article that passes to or from them—such as fuel, water, rations, work, offals, excrements, &c. &c.—which renders it next

to impossible, with the utmost vigilance, to prevent improper communication. All the females, whether few or many, (at present twenty-five,) must of necessity be confined, at night, in four cells, not larger each than a common bed-room. Another inconvenience is, that they are in so remote a part of the prison, that in case of sudden sickness or other calamity, in the night, they could not be heard unless by mere accident.

But if all these inconveniences were obviated, there would still remain one, which, of itself, ought to be sufficient to decide the matter at once,—and for which *there is no remedy*, as stated in the last report of your Board, “without incurring an expense, in the re-organization of the male department, more than equal to that of erecting an entire new institution for females.” I allude to the fact of their being necessarily confined, day and night, perpetually, within walls which almost exclude the air and light of heaven. They never do, and never can, step out of their close apartments, for one moment, to breathe the fresh air, or enjoy the broad light of day. The consequence is, a great amount of disease, and a general lassitude and inertness almost as bad. A proportionate amount of sickness among the male convicts, would throng the hospital with from fifty to a hundred men constantly, instead of six or eight. In this situation, many of the females have endured long sentences, and others remain who have spent more than half of their terms, of seven, ten, twelve, and fourteen years. Who can hesitate to pronounce it inhuman—barbarous—unworthy of the age? And why is the penalty of the law allowed to fall with more severity upon this class of convicts than upon the other? To be a *male* convict in this prison, would be quite tolerable; but to be a *female* convict, for any protracted term, would be worse than death.

I have said, that for this evil *there is no remedy*. This every one knows, who has any knowledge of the arrangement of our prison buildings, shops and yards. The females cannot now step out of their apartments, in any direction, without mingling with the men; and there is no yard room that can possibly be appropriated to their use, without completely deranging the operations of a great part of the male department.

But further, I am told by the agent and keeper, that, in order to complete the design which has been begun by the erection of the new block of cells in this wing the past season, the females must be removed from their present apartments, and placed—no one knows where. They may have rooms fitted up in the present temporary chapel, still less convenient than those they now occupy; but only by dispensing entirely with a place for public worship. The design thus commenced, I am also told, must be completed, for the safe keeping of the convicts, and for the purpose of making a necessary enlargement of the mess-room, and that your Board will make application for a law authorising it to be done the ensuing season. Unless, then, the Legislature is prepared entirely to abandon the practice of public worship in this prison, for the sake of keeping these females here, and that in a truly miserable condi-



tion, what other alternative remains, than either to provide a new establishment for them, or discharge them from confinement?

Though I have already swelled this communication far beyond the limits which I had prescribed to myself, I cannot close it without acknowledging my obligations to the officers of the prison; for the countenance and kindness that I have uniformly met with in the discharge of my duties,—and to the Prison Discipline Society, of Boston, for their persevering efforts to sustain me, as their missionary, by pecuniary contributions, in addition to the inadequate amount which I receive from the funds of the prison.

I am, gentlemen,

Very respectfully,

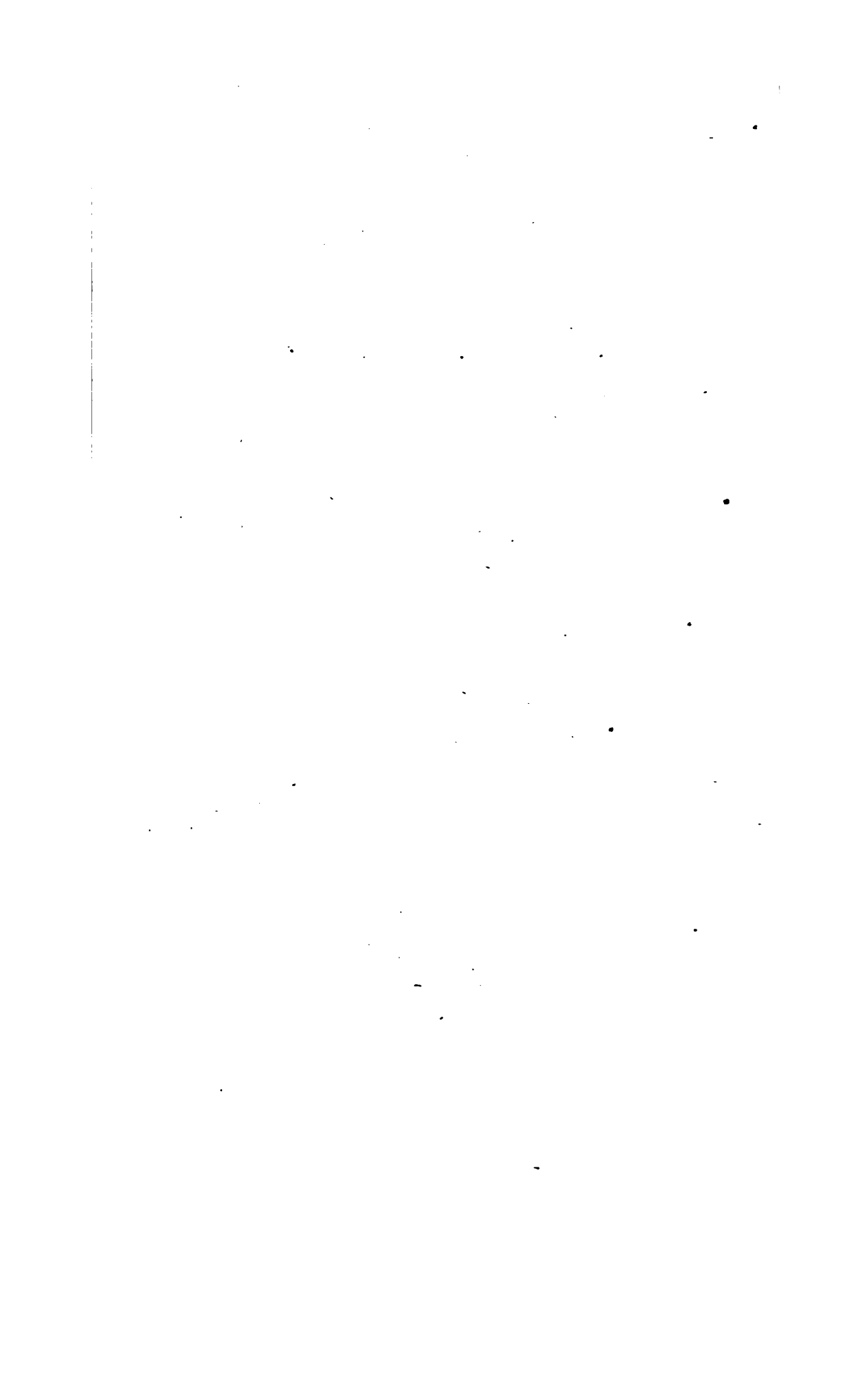
Your obedient servant,

B. C. SMITH,  
*Resident Chaplain.*

STATE-PRISON, AUBURN, }  
January 1, 1833. }

ding 31st December, 1839

		<i>Terms of sentence.</i>	
...	100	2 years,.....	6
...	13	3 " .....	4
...	11	4 " .....	1
...	10	5 " .....	2
...	8	6 " .....	
...	5	7 " .....	
...	1	8 " .....	
...	2	10 " .....	
...	3	15 " .....	
...	2	Life,.....	
...	1	2 years 1 month,.....	
...	13	2 " 2 " .....	
...	9	2 " 3 " .....	
...	7	2 " 5 " .....	
...	4	2 " 6 " .....	
...	1	2 " 8 " .....	
...	1	2 " 9 " .....	
...	1	3 " 1 day,.....	
...		3 " 15 " .....	
...	192	3 " 1 month, .....	
		3 " 3 " .....	
		3 " 6 " .....	
		3 " 9 " .....	
		4 " 7 " .....	
		4 " 9 " .....	
		4 " 10 " .....	
		6 " 10 " .....	
		Total,.....	19



ending December 31st, 1832.

<i>Complexion.</i>	<i>Height.</i>	<i>When pardoned.</i>	<i>Term unexpired.</i>
Dark, .....	5 ft. 8½ in.	Jan. 15, 1832, ..	3 years 5 m'ths.
" .....	5 " 11½ "	July 2, .....	5 " 3 "
" .....	5 " 9½ "	March 20, .....	2 " 8 "
Florid, ....	5 " 7½ "	April 3, .....	10 " 6 "
Dark, .....	5 " 6½ "	Feb. 20, .....	
Light, .....	5 " 8½ "	Dec. 13, .....	
" .....	5 " 2½ "	April 28, .....	
" .....	5 " 9½ "	Dec. 17, .....	3 " 9 "
Dark, .....	5 " 10½ "	" 13, .....	
" .....	5 " 7 "	June 7, .....	6 " 9 "
Light, .....	5 " 7 "	March 29, .....	
Dark, .....	5 " 9½ "	Feb. 14, .....	1 " 11 "
" .....	5 " 10 "	Jan. ....	1 " 8 "
		Dec. 13, .....	9 " 1 "
Light, .....	5 " 6½ "	May 17, .....	9 "
" .....	5 " 4½ "	Oct. 20, .....	8 "
Negro, ....	5 " 6½ "	June 14, .....	
Dark, .....	5 " 9 "	Feb. 13, .....	5 " 8 "
Light, .....	5 " 9 "	Dec. 17, .....	2 " 6 "
" .....	5 " 6½ "	Sept. 24, .....	3 " 7 "
dian, ....	5 " 10½ "	Feb. 8, .....	3 " 1 "
Dark, .....	5 " 8 "	Jan. 30, .....	1 " 11 "
" .....	5 " 8½ "	Dec. 13, .....	
Light, .....	5 " 9 "	Feb. 14, .....	
Dark, .....	5 " 8 "	June 18, .....	3 " 3 "
Light, .....	5 " 9½ "	March 12, .....	1 " 10 "
Dark, .....	5 " 11 "	August 24, ....	3 " 10 "

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## (No. 5.)

## INVENTORY

*Of property in State Prison, Auburn, belonging to the State, on the  
30th September, 1832.*

Comb shop, ..... tools and furniture, .....	\$11 06
Carpenters' shop, ..... "	236 78
Coopers' " ..... "	931 20
Tool " ..... "	12 43
Shoe " ..... "	708 98
Cotton weavers' shop, looms, &c. "	1,011 26
Customers " " .....	914 50
Smiths' " " .....	1,040 90
Cabinet and chair " " .....	77 62
Sattinet weavers' " " " .....	709 69
Check and hame " " " .....	213 88
Tailors' " tools " .....	126 87
Stone " " " .....	278 97
Fire-engine, hose and hose-cart, .....	1,031 62
Stable, horse, harness, wagons, &c. ....	335 50
Soap-house, ashes, grease and fixtures, .....	156 75
Wood-house, wood, lumber and tools, .....	453 25
Kitchen-kettles, fixtures, cups, knives, forks, &c. ....	780 69
Store-room, materials for clothing, tools, &c. ....	1,302 10
Clothes-room, clothing made up, .....	5,031 98
Bedding in the wings, hammocks, blankets, &c. ....	5,891 88
Female department, furniture, .....	56 53
Furniture in the wings, .....	925 75
" keepers' hall, .....	52 26
" chapel, .....	116 00
Hospital, mattresses, furniture, &c. ....	349 39
" medicine, .....	76 84
Guard-house, muskets, ammunition, &c. ....	243 00
Agent's office, furniture, &c. ....	34 00
Clerk's " " stationary, materials, &c. ....	602 45
Stoves and pipe, throughout the prison, .....	1,273 51
	<hr/>
	\$24,987 64
Amount of inventory taken September 30th 1831, ....	23,160 21
	<hr/>
Increase for one year, .....	\$1,827 43
	<hr/>

(No. 6.)

STATEMENT

Of the monthly earnings of the convicts as charged to the contractors. Also of the earnings and profits of such convicts and prison sources as are not under contract; together with the monthly expenditures, for general support of the prison, and for building 220 cells: for the year ending September 30, 1892.

	Earnings of the convicts, as charged to the contractors monthly.	Receipts from all prison sources, monthly.	Expenditures for general support.	Expenditures for building 220 cells.
1891.				
October, .....	\$3,097 98	\$3,375 01	\$3,158 53	
November, .....	3,161 50	2,296 92	4,189 59	
December, .....	3,459 72	401 76	3,415 48	
1892.				
January, .....	3,289 42	4,730 70	2,995 77	\$352 52
February, .....	3,149 49	2,134 09	3,066 39	25 00
March, .....	3,413 19	3,515 70	2,776 92	99 91
April, .....	3,102 69	3,632 49	2,727 28	27 73
May, .....	3,247 74	2,333 64	3,346 08	669 05
June, .....	3,103 58	3,322 50	2,935 48	509 12
July, .....	2,913 13	3,660 84	2,953 26	808 23
August, .....	3,142 29	3,884 81	3,549 93	5,636 77
September, .....	2,870 53	3,760 18	3,190 60	1,945 94
	\$37,951 26	\$37,248 59	\$38,305 31	\$10,074 27

Annual earnings of the convicts as charged to the contractors monthly,.....	\$37,951 26	
Stone shop,.....	\$1,189 36	
Smith do .....	317 26	
Weaver's do.....	782 69	
Turner's do.. .....	73 14	
		2,362 45
Articles sold, charged, and paid for,.....	\$124 12	
Maintenance of U. S. convict,.....	64 69	
Transportation of 1 convict to House of Refuge,.....	110 20	
Visitors,.....	1,220 75	
		1,519 76
		<u>\$41,833 47</u>

## (No. 7.)

*Agent's return to the Inspectors, of the State-Prison accounts for the month of October, 1831.*

STATE-PRISON, AUBURN, }  
November 1, 1831. }

To the Inspectors of the State-Prison, Auburn,

The Agent respectfully reports: That the following is a correct return of all monies received and paid by him on account of the State-Prison, from the 1st to the 31st inclusive, of October, 1831.

1831. Oct. 1.	Balance of cash in Agent's hand, as per annual account current of September 30, 1831,.....	\$14,208 99
31.	Cash received from the following sources and persons:	
	Machine shop, I. Hitchcock & Co.,..	250 00
	Japan button shop, Wm. Backus,....	22 23
	Prison, J. W. Livingston, U. S. Marshall, for keeping John Fisher, mail robber, .....	64 69
	Clerk's desk, balance 1st October,....	30 80
	Button shop, C. Fanning & Co.,.....	110 78
	Check shop, Wm. Woods & Co.,....	114 93
	Stone shop, B. Arnold,.....	68 07
	Comb shop, Dunham, Dunning & Co.,	171 07
	Hame shop, C. & P. Hayden,.....	120 00
	Sattinet shop, P. H. Schenck & Co.,.	342 60
	Turner's shop, T. Cherry,.....	275 00
	Stone shop, Lucius Dunning,.....	2 60
	Machine shop, I. Hitchcock & Co.,..	233 08

Carried forward,..... \$

Brought forward,.....	\$	
Weavers' shop, R. Muir & Co.,.....	430	52
Cooper's shop, Abel Withey,.....	271	25
Stone shop, Halsey Phelps,.....	48	29
Shoemaker's shop, E. & J. Pease,....	200	00
Tool shop, T. J. McMaster & Co.,....	200	00
Tailor's shop, H. & Van Anden,.....	223	25
Clerk's office, prison, articles sold, .....	\$7	31
Weaver's shop, customers,..	62	84
Shoe shop, pegs sold,.....	1	00
Visitors, .....	155	50
		<u>226 65</u>
		<u><u>\$17,614 80</u></u>

1832.

Nov. 1. To balance per contra, bro't forward,.....\$14,456 27

1831.

Oct. 1. Cash paid on the following accounts, and to the following persons, for the general support of the prison:

Turnkeys and keepers, 1 month services, pay roll,.....	925	01
Guard, 1 month services, pay roll,.....	400	00
Provisions, N. Garrow, 18,361 rations, 5½ cts,	955	61
Hospital, J. G. Morgan, 1 month services as P. ....	\$41	66
J. Darrow, bill of medicine,.....	16	59
Steel, Cook & Co. bill of medicine, .....	26	07
Hugh Ward, 62 quarts milk, 4cts., .....	2	48
A. V. E. Young, hospital supplies, .....	2	52
		<u>89 32</u>
Chaplain, B. C. Smith, 1 mo. services,....	31	94
Soap, Ira Mason, 183lbs. grease, at 5½ cts.,.....	\$10	06
J. Kilburn, 111lbs. grease, at 5½ cts.,.....	6	10
		<u>16 16</u>
Oil &c., A. V. E. Young, 10 lbs. S. candles, .....	\$3	44
Dunham, D. & Co. 67½ gals. oil, at 95cts.,.....	64	12
Wm. Backus, oil measures, .....	8	22
		<u>75 78</u>

Carried forward,.... . \$

	Brought forward,.....	\$	
Brooms,	I. Dewaters, 50 brooms,.....		5 00
Clothing,	J. B. Hyde & Co., 24 pa-		
	pers needles, .....	\$2 16	
	Auburn Manufacturing		
	co. 719lbs. cot'n yarn		
	28cts., less 6 mo. int.,	195 42	
	J. L. Jones & Co., fe-		
	male clothing, .....	2 12	
	Wm. Backus, bill of but-		
	tons, .....	14 01	
			213 71
	Discharged convicts, 11 convicts, receipts, at		
	\$3 each.....		33 00
Fire wood,	Edward Allen, 49 $\frac{1}{4}$ cords wood		
	at 14s., .....		86 91
Prison,	H. Burt, 6 loads clay, 1 s.,	\$0 75	
	Wm. Goodwin, 130lbs bro-		
	ken glass, .....	2 71	
	Barns & Gould, 16 $\frac{1}{2}$ tons		
	sand, at 2s., .....	4 13	
	E. Bradley & Co., bill,		
	spoons, screws, &c.,...	7 25	
	L. Hinman, $\frac{1}{2}$ doz. paint		
	brushes, .....	3 00	
	D. Campbell, 1,024 feet		
	lumber, .....	10 24	
	Steel, Cook & Co., oil and		
	paints, .....	36 86	
	Lucius Dunning, 83 $\frac{1}{2}$ feet		
	stone, at 2s., .....	20 87	
	Abel Withey, staves, iron		
	plates, &c., .....	46 85	
	Lewis Warren, 1,888 feet		
	lumber, at 10s., .....	23 60	
	E. C. Willis, 520 feet lum-		
	ber, at \$9, .....	46 80	
	E. Allen, 685 feet lumber,		
	at 6s., .....	5 13	
	I. S. Miller, bill of nails,		
	iron, &c., .....	106 00	
			314 19
Charcoal,	James Quilk, 85 bush. coal,		
	at 6 cts., .....	5 10	
	James Barns, 110 bush. coal,		
	at 6cts., .....	6 66	
			11 70
	Balance carried forward, .....	14,456 27	
			<u>\$17,614 80</u>



STATE OF NEW-YORK. }  
 CAYUGA COUNTY, } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the State-Prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of the said prison, during the month of October, 1831, is correct and true in every respect according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
 H. BOSTWICK.

Sworn and subscribed before me  
 this 7th day of January, 1833.  
 J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No. 8.)

*Agent's Return to the Inspectors, of the State Prison Accounts for the month of November, 1831.*

STATE PRISON, AUBURN, }  
 December 1st, 1831. }

To the Inspectors of the State Prison, Auburn.

The agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the state prison, from the 1st to the 30th, inclusive, of November, 1831.

1831. Nov. 1. Balance of cash in Agent's hands, as  
 October report, ..... \$14,456 27  
 Nov. 30. Cash received from the following sources and persons:

Stone shop, A Underwood, .....	60 00
Hame shop, C. & P. Hayden, .....	60 00
Sattinet shop, P. H. Schenck & Co...	355 52
Weaver's shop, R. Muir & Co. ....	435 30
Comb shop, Dunham, Dunning & Co.	169 25
Carpenter's shop, Dudley Everts, ....	49 00
Turner's shop, T. Cherry, .....	200 00
Machine shop, I. Hitchcock & Co. ...	200 00
Check shop, Woods & Loudon, .....	106 02
Button shop, E. R. Vredenburg, ....	29 00
Shoe shop, E. & J. Pease, .....	200 00
Turner's shop, Curtis & Cherry, .....	100 00
Tool shop, T. J. McMaster & Co. ....	200 00
Carried forward, .....	•

	Brought forward,.....	•	
1831. Nov. 31.	Clerk's office, prison articles		
	sold,.....	\$2 37	
	Weaver's shop, customers,...	75 46	
	Visitors, .....	58 00	
			<u>132 83</u>
			<u>\$16,753 19</u>
1831. Dec. 1.	To balance, as per contra, bro't forward,	\$12,563 60	

1831.

Nov. 30.	Cash paid on the following accounts, and to the following persons, for the general support of the prison:		
	Turnkeys and keepers, 1 mo. services, pay-roll,	\$953 53	
	Guard, 1 mo. services, do	387 00	
	Provisions, N. Garrow, 18,148 rations, 5½ cts.	943 70	
	J. G. Morgan, 1 mo. services as physician, .....	\$41 66	
	A. V. E. Young, hospital supplies, .....	6 09	
	E. Bradley & Co. do	2 48	
			<u>50 23</u>
	Chaplain, B. C. Smith, 1 mo. services as chaplain, .....	\$31 94	
	Gardner Baker, 2 mo. do do	11 11	
			<u>43 05</u>
	Prison, A. V. C. Young, bill of sundries, \$0 75		
	E. Bradley & Co., 8 doz. knives and forks,.....	7 50	
	D. Everts, bill of lumber, 16 77		
	Elijah Sperry, do do and timber,.....	125 44	
	L. S. Miller, bill of iron, &c.	53 02	
	H. G. Van Duzen, carting lumber, .....	1 00	
			<u>204 48</u>
	Lamps and oil, Dunham, Dunning & Co. bill of oil,.....	62 16	
	Clothing, Jesse Peterson, 1,084½ pounds leather, .....	\$235 36	
	Stephen Covert, 4 doz. sheep skins,.....	22 00	
	Doremus, Suydam & Co. 200 blankets,.....	279 50	
			<u>Carried forward,.... •</u>

	Brought forward,.....	\$	\$
1831.			
Nov. 30.	Clothing, Josiah Barbour, bill wool,	867 28	
			1,404 1.
	Soap, John Kilburn, 103 lbs. grease,		
	4½ cts.	\$4 68	
	Joseph Beach, 93 lbs., 4 cts...	3 72	
			8 40
	Fire wood, Edward Allen, 67½ cords wood,		
	14s.		117 90
	Discharged convicts, 5 convicts receipts, of		
	\$3 each	15 00	
	Balance, carried forward,.....	12,563 60	
			<u>\$16,753 11</u>

STATE OF NEW-YORK, } ss.  
CAYUGA COUNTY.. }

Levi Lewis, Agent, and Hiram Bostwick, clerk, of the state prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of the said prison, is correct and true in every respect, according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me  
this 7th day of January, 1833.  
J. L. RICHARDSON,  
First Judge of Cayuga.

(No. 9.)

*Agent's return to the Inspectors, of the State Prison accounts for the month of December, 1831.*

STATE PRISON, AUBURN, {  
January 1st, 1832. }

To the Inspectors of the State Prison, Auburn:

The Agent respectfully reports, that the following is a correct return of all monies received and paid by him on account of the State Prison, from the 1st to the 31st December, 1831.

1831, Dec. 1. Balance of cash in Agent's hands, as  
per Nov. report, ..... \$12,563 60

Carried forward,..... \$12,563 60

	Brought forward, .....	\$12,563 60
1831. Dec. 31.	Cash received from the following sources and persons:	
	Stone shop, A. Underwood, .	\$57 69
	Agent of Seneca Falls M. Co.	16 65
	H. Polhemus, .....	1 25
		<hr/> 75 59
	Carpenter's shop, J. S Vreeland....	30 11
	Clerk's office, smiths' shop, ..	\$6 70
	Hame shop, .....	3 00
	Weavers' shop, .....	164 61
	Visitors, .....	121 75
		<hr/> 296 06
		<hr/> \$12,965 36
1832, Jan. 1.	To balance per contra, bro't forward,	<hr/> \$9,549 88

1831.

Dec. 31. Cash paid on the following accounts, and to the following persons for the general support of the prison.

Turnkeys and keepers, 1 months' services, pay-roll, .....	\$943 74
Guard, 1 months' services, pay-roll, .....	368 87
Provisions, N. Garrow, 20,074 rations 5½ cts.	1,043 85
Hospital, J. G. Morgan, 1 mo. services as physician, .....	\$41 66
A. V. E. Young, hospital supplies, .....	2 41
E. Bradley & Co. do	3 95
J. Darrow, bill medicine, ..	7 44
Steel, Cook & Co. do	3 75
Hugh Ward, 60 qts. milk, 4 cts. ....	2 40
do 62 do	2 48
Carhart & Polhemus, 2 brls. flour, .....	11 00
Dan'l Carver, bill meat, ...	56
	<hr/>
	75 65
Chaplain, B. C. Smith, 1 months' services as chaplain, .....	31 94
Postage, Geo. B. Throop, 1 quarters' postage, .....	5 16
Fire wood, Dan'l Doty, 19½ c'ds wood, 16s. ....	\$38 22
Edw'd Allen, 194½ c'ds wood, 14s. ....	340 92
	<hr/>
Carried forward, .....	\$

1831.

	Brought forward,.....	\$	
Dec. 31.	Wm. Woods, 32 $\frac{5}{8}$ c'ds		
	wood, 14s. ....	57 30	
			436 44
Brooms,	Noble Adams, 11 $\frac{1}{2}$ doz. brooms, 16s.		23 00
Prison,	Edward Allen, 1,151 feet oak		
	boards, at 8s. ....	\$11 51	
	Ric'd Barber, 4 bush. hair,		
	at 2s. ....	1 00	
	Lyman Hinman, bill of		
	brushes, ....	9 19	
	Cooley & Bates, bill of		
	glass, ....	1 46	
	John Vreeland, services,	1 50	
	M. C. Reed, 30 bibles, at		
	5s. 6d. ....	20 63	
	Ethan Bradley & Co. sun-		
	dries, ....	2 76	
	A. V. E. Young, 14 lbs,		
	tallow, at 11 cts. ....	1 54	
	I. S. Miller, iron, nails,		
	&c. ....	107 41	
			157 00
Charcoal,	E. Waldron, 63 $\frac{1}{2}$ bushels		
	coal, at 6 cts. ....	3 81	
	Petit Carvis, Jun. 297 "		
	coal, at 6 cts. ....	17 82	
	P. Ocobock, 1185 bush'ls		
	coal, at 6 cts. ....	71 10	
			92 73
Oil, &c,	Dunham, Dunning & Co. 80 $\frac{1}{2}$ glls.		
	oil, at 9s. ....	90 56	
Prison,	Hotchkiss & Vananden, bill of nee-		
	dles, ....	5 62	
Clothing,	H. Leonard, 69 $\frac{3}{4}$ lbs. wool,		
	at 40 cts. ....	\$27 93	
	R. & J. Patty, 6 sides lea-		
	ther, at 28s. ....	21 00	
	J. Rice, Jun. bill of frei't		
	on leather, ....	7 14	
	B. Porter, " "	61	
			56 68
Turnkey and keepers.	Wm. Holmes, services		
	as clerk, ....	6 16	
Guard,	Isaac Treat, services as		
	guard, ....	\$17 50	
	Isaac P. Hubbard, "	15 58	
			33 08
	Carried forward,.....	\$	

Brought forward,..... \$

1831.  
Dec. 31.

Horse, &c. Wm. Woods, 1 ton hay,.....	6 00
Discharged convicts, 13 convicts, receipts of \$3 each,	39 00
Balance carried forward,.....	9,549 88
	<u>\$12,965 36</u>

STATE OF NEW-YORK, }  
CAYUGA COUNTY. } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the State Prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of said prison, during the month of December, 1831, is correct and true, in every respect, according to the best of their knowledge and belief, and further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.Sworn and subscribed before me,  
this 7th day of January, 1833.J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No. 10.)

*Agent's Return to the Inspectors, of the State Prison Accounts for  
the month of January, 1832.*STATE PRISON, AUBURN, }  
February 1st, 1832. }

To the Inspectors of the State Prison, Auburn,

The Agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the state prison, from the 1st to the 31st of January, 1832.

1832.

Jan. 1. Balance of cash in Agent's hands, as per December report,.....	\$9,549 88
Jan. 31. Cash received from the following sources and persons:	
Comb shop, Dunham, Dunning & Co.....	182 99
Cooper's shop, A. Withey, .....	552 51
Shoe shop, E. & J. Pease, .....	400 00

Carried forward,..... \$

	Brought forward,.....	\$	
1832.			
Jan. 31.	Weaver's shop, R. Muir, & Co. ....	451	16
	Button shop, E. R. Vreedenburgh,.....	131	17
	Machine shop, Hitchcock & Walcott,.....	300	00
	Turner's shop, T. Cherry,.....	\$306	84
	Curtis & Cherry, ... -	33	94
			340 78
	Sattinet shop, P. H. Schenck & Co. ....	670	73
	Hame shop, C. & P. Hayden,.....	\$497	94
	Guilford & Brown, ....	24	38
			522 32
	Stone shop, Edward Allen,.....		1 50
	Smiths' shop, Abel Withey,.....	\$43	34
	P. H. Schenck & Co....	1	26
	W. Woods,.....	1	75
	I. S. Miller, .....	88	62
			134 97
	Check shop, Woods & Loudon, .....	135	51
	Carpenter's shop, I. S. Miller,.....	10	00
	Tailor's shop, Hotchkiss & Van Anden, ....	420	58
	Clerk's office, Smiths' shop, .....	\$3	50
	Weav's do (customers)	135	75
	Hame do .....	1	50
	Stone do .....	11	86
	Carpenter's do .....	10	
	Turner's do .....	17	77
	Visiters, .....	307	65
			478 13
			<u>\$14,282 23</u>
Feb. 1.	To balance, per contra, brought forward,...	\$10,933	94
1832.			
Jan. 31.	Cash paid on the following accounts, and to the following persons, for the general support of the prison:		
	Turnkeys and keepers, 1 mo. services, pay roll,.....	\$945	58
	J. I. Underhill, 4½ days, examining books,	9	00
	do 3½ days do	7	00
	Jacob Young, 5 do do	10	00
	Wm. Backus, 24 days services as turnkey, .....	29	57
			1,001 15
	Guard, 1 mo. services, pay roll,.....	400	00
	Provisions, N. Garrow, 19,927 rations, 5½cts.	1,036	20
	Carried forward,.....	\$	

	Brought forward,.....	\$	
1232.			
Jan. 31. Hospital,	J. G. Morgan, 1 mo. services as physician,.....	\$41 66	
	Hugh Ward, 62 qts. milk, at 4cts. ....	2 48	
			44 14
Chaplain,	B. C. Smith, 1 mo. services as chaplain, .....	\$31 94	
	Gardner Baker, 3 mo. do	16 66	
			48 60
Prison building,	Adam Fries, 17,525 brick, at \$3.874, .....	\$67 90	
	Fleming Gibbs, 8,914 feet lumber, at 8s. } do 937 do 14s. }	55 88	
	Martin Howe, 504 feet lumber, at 8s. } do 156 do 14s. }	7 77	
	Christopher Jeffries, 50,000 bricks, at \$3.75,.....	175 00	
	Edward Allen, 1,129 feet lumber, at 6s. ....	8 47	
	Jabez Tefft, carting 50,000 bricks, at 6s. ....	87 50	
Fire wood,	I. Vanauken, 8 $\frac{7}{11}$ cords of wood, at 14s. ....	\$17 10	
	Edward Allen, 156 $\frac{2}{11}$ cords wood at 14s. ....	274 16	
	Daniel Doty, 4 $\frac{4}{11}$ cords wood, at 16s. ....	9 00	
			300 26
Prison,	Lyman Smith, 14 days team work,.....	\$2 25	
	T. Cherry, chairs and sundries,.....	3 84	
	Cherry & Curtis, do,....	33 93	
	A. & J. Bostwick, sundries,	3 81	
	A. Withey, staves &c. ...	15 96	
	I. S. Miller, iron, nails, &c.	14 38	
			70 17
Clothing,	E. Bradley & Co. bill of dye-stuffs, .....	\$3 55	
	Moses Treat, 10 runs thread at 4s. ....	5 00	
			8 55
Horse, &c.	John Miller, 1 ton hay,.....		10 00
Brooms,	Noble Adams, 84 dozen brooms, at 16s. ....		17 00
	Carried forward,.....	\$	



Brought forward,..... \$

1832.		
Jan. 31.	Charcoal, D. O. Durkee, 316 bush. coal, 5½c.	17 38
	Soap, Ira Mason, 66½ lbs. grease at 5cts.	3 32
	Discharged convicts, 13 convicts, receipts of \$3 each; .....	39 00
	Balance, carried forward, .....	10,933 94
		<hr/>
		\$14,282 23
		<hr/>

STATE OF NEW-YORK, }  
 CAYUGA COUNTY. } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the state prison, Auburn, being duly sworn do depose and say, that the above account of moneys received and paid on account of said prison during the month of January, 1832, is correct and true in every respect, according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
 H. BOSTWICK.

Sworn and subscribed before me  
 this 7th day of January, 1833.  
 J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No. 11.)

*Agent's return to the Inspectors, of the State-Prison accounts for the month of February, 1832.*

STATE-PRISON, AUBURN, }  
 March 1, 1832. }

To the Inspectors of the State-Prison, Auburn.

The Agent respectfully reports, that the following is a correct account of all monies received and paid by him on account of the State-Prison, from the 1st to the 29th of February, 1832.

1832.	
Feb. 1.	Balance of cash in Agent's hands, as per January report, .....
	\$10,933 94
29.	Cash received from the following sources and persons:
	Tailors' shop, Hotchkiss & Van Anden, .....
	191 39
	Comb shop, Dunham, Dunning & Co., .....
	146 60
	Weavers' shop, R. Muir & Co., .....
	438 42
	Carpenters' shop, Dudley Everts, .....
	50 00

Carried forward,..... \$

Machinist's shop, Hitchcock & Wolcott,....	\$320 00
Smith shop, Josiah Barber,.....	1 75
Check shop, Wood & Loudon,.....	223 23
Shoe shop, E. & J. Pease,.....	400 00
Stone shop, Isaac Selover,.....	16 09
Clerk's office, smith shop,.....	\$3 62
Stone do .....	50
Weavers's do, custom- ers, .....	104 24
Visitors, .....	240 25
	<hr/>
	346 61
	<hr/>
	\$13,068 03

March 1. To balance per contra brought forward,.... \$9,976 64

1832.

Feb. 29. Cash paid on the following accounts, and to following persons, for the general support of the prison.

Turnkeys and keepers, 1 mo. services, pay roll.....	\$962 51	
B. C. Smith, 5 days servi- ces writing, at 12s.,...	7 50	
	<hr/>	970 01
Guard, 1 mo. services, pay roll,.....	400 00	
Provisions, N. Garrow, 18,145 rations, 5½cts.,	943 54	
Hospital, J. G. Morgan, 1 mo. servi- ces as physician,.....	\$41 66	
A. V. E. Youngs, hospital supplies, .....	2 60	
Carhart & Polhemus, 1 bbl. flour,.....	5 50	
	<hr/>	49 76
Chaplain, B. C. Smith, 1 mo. ser. as chaplain,	31 94	
Prison, Wm. Woods, 30 bundles straw at 2 cts.,.....	\$0 60	
R. Muir & Co., bill sun- dries, .....	20 87	
J. B. Hyde & Co., iron, nails, &c.,.....	24 59	
Dunham D. & Co., 9½lbs. rope, at 1s 4d., .....	1 54	
	<hr/>	47 60
Stationary, U. F. Doubleday, blank books, .....	\$11 06	
H. Iriseu & Co., do ....	14 00	
W. A. Gould, paper & q'lls,	22 56	
W. C. Little, do	1 00	
	<hr/>	

Carried forward,.....\$ \*

	Brought forward,...	\$	\$	
	Thorps & Sprague, freight on box,.....	1	25	
	Levi Lewis, do .....	75		
				50 62
Soap,	T. J. McMaster, 48½lbs. soap, at 7cts, box,....	\$3	59	
	N. Garrow, 240lbs. grease at 4cts.,.....	9	60	
	A. Fitch & Co., 255lbs do at 4cts.,.....	10	20	
				23 39
Oil &c.,	Dunham, D. & Co. 86gals. oil, at 9s., .....	96	75	
	Dunham, D. & Co., 49 do at 9s., .....	55	13	
				151 88
Prison building,	S. A. Gould, 10 loads sand, at 2s.,....	3	75	
	J. A. Selover, 5,000 brick, at 34s.,.....	21	25	
				25 00
Clothing,	P. H. Schenck, & Co., 23½ yds. sattinet,.....	\$14	10	
	W. Backus, 2doz. knitting needles, .....	19		
	Genung & Russell, 1 Bonnet, .....	1	75	
	James Gager, 39½lbs wool, at 40cts.,.....	15	90	
				31 94
Fire wood,	E. Withey, 15½ cords wood, at 15s.,.....	\$29	59	
	E. Allen, 38½ do at 14s.,	67	32	
	H. Phelps, 120½ do 14s.	210	60	
				307 51
Charcoal,	Jesse Brooks, 60 bush. coal, 7cts.,			4 20
Discarged convicts,	18 convicts, receipts of, at \$3 each,.....			54 00
	Balance carried forward,.....			9,976 64
				<u>\$13,068 03</u>

STATE OF NEW-YORK. }  
 CAYUGA COUNTY, } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the State-Prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of the said prison, during the month of February, 1832, is correct and true in every

respect according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me  
this 7th day of January, 1833.  
J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No 12.)

*Agent's return to the Inspectors, of the State-Prison accounts, for  
the Month of March, 1832.*

STATE-PRISON, AUBURN, }  
April 1, 1832. }

To the Inspectors of the State-Prison, Auburn.

The Agent respectfully reports, that the following is a correct account of all monies received and paid by him on account of the State-Prison, from the 1st to the 31st March, 1832.

1832.		
March 1.	Balance of cash in Agent's hands, as per February report, .....	\$9,976 64
March 31.	Cash received from the following sources and persons:	
	Comb shop, Dunham, Dunning & Co.....	381 88
	Cooper's shop, Abel Withey,.....	562 38
	Sattinet shop, P. H. Schenck & Co.....	351 19
	Shoe shop, E. & J. Pease,.....	300 00
	Weaver's shop, R. Muir & Co. ....	433 42
	Cabinet shop, T. Cherry,.....	324 00
	Hame shop, C. & P. Hayden,.....	254 64
	Button shop, E. R. Vreedinburgh,.....	75 00
	Machine shop, Hitchcock & Wolcott, .....	350 00
	Stone shop, A. V. M. Suydam,.....	28 25
	Smith shop, Carpenter & Bodley,.....	6 63
	Carpenter's shop, Dudley Everts, .....	30 00
	Tailor's shop, Hotchkiss & Van Anden,....	194 12
	Clerk's office, weavers' shop, cus- tomers, .....	\$32 92
	Smith shop, .....	6 12
	Stone shop, .....	107 65
	Visitors, .....	77 50
		<hr/> 224 19
		<hr/> \$13,492 34
April 1.	To balance, per contra, brought forward, ...	<hr/> \$10,583 06

1832.

March 31. Cash paid on the following accounts, and to the following persons, for the general support of the prison.

Turnkey and keepers, 1 mo. services, pay roll, .....	\$962 51
Guard, 1 mo. services, pay roll, .....	400 00
Provisions, N. Garrow, 19,095 rations, 5½ cts.,	992 94
Hospital, J. G. Morgan, 1 mo. services as	
as physician, .....	\$41 66
Hugh Ward, 58 quarts milk,	
4 cts., .....	2 32
E. Bradley, bill of medicine, 21 27	
	<hr/>
	65 25
Chaplain, B. C. Smith, 1 mo. services as	
chaplain, .....	31 94
Soap, J. Kilburn, 56 lbs. grease,	
5 cts., .....	\$2 80
209 lbs. grease,	
5 cts., .....	10 45
	<hr/>
	13 25
Clothing, A. Treat, 28½ runs of thread,	
4s. 6d. ....	\$16 03
S. Covert, 9 sides leather,	
12s. ....	13 50
B. Smith, 1 second hand coat,	3 00
	<hr/>
	32 53
Charcoal, Nathan Arnold, 80 bush. coal,	
8½ cts., .....	\$6 80
Jesse Brooks, 77½ lbs. do	
7 cts., .....	5 42
Garret Post, 47 lbs. do	
10 cts., .....	4 70
P. Francisco, 56½ lbs. do	
8 cts., .....	4 52
Eli Berrian, 55½ lbs. do	
8 cts., .....	4 44
J. J. Traver, 63½ lbs. do	
8 cts., .....	5 06
S. W. Mott, 52½ lbs. do	
8 cts., .....	4 20
Peter Francisco, 45½ lbs. do	
8 cts., .....	3 64
Garret Post, 74 lbs. do	
8 cts., .....	5 92
J. J. Traver, 172 lbs. do	
8 cts., .....	13 76
	<hr/>
	58 46
Horse, &c. A. V. M. Suydam, 1 wagon har-	
ness, &c. ....	28 25
	<hr/>
Carried forward, .....	*

Brought forward,.....

1232.

March 31.	Prison building, Edward Allen, 2 sticks timber, 50 feet long, \$2, .....	\$4 00	
	4 scaffold poles, 4s..	2 00	
	3,323 feet timber, 6s.	24 91	
	Elijah Sperry, 926 feet boards, 6s. ....	6 94	
	Edward Allen, 2,108 feet timber, 6s. ....	15 81	
	1,622, feet do 8s.,	16 22	
	I. S. Miller, 1cwt. 2qrs. 26lb. iron, 44s.,	9 53	
	1 box tin plate, .....	13 00	
	100lb. nails, 7 1/2cts.,...	7 50	
			99 91
	Brooms, Noble Adams, 12 doz. brooms, 12s.....	18 00	
	J. De Waters, 30 splint do, 10cts.,.....	3 00	
			21 00
Prison,	E. Cobb, bill of sundries,	31 19	
	Hunt & Co. 10lb. borax,	2 80	
	I. S. Miller, iron, nails, &c.	15 68	
	John I. Traver, timber for hame handles,.....	75	
			50 42
Errors,	This amount debited to the Agent, in monthly account of Oct. 1831, but which sum had been debited the Agent, in the receipts of money for that month,.....	30 80	
	The amount of cash received from visitors in Jan. 1832, over added,	1 65	
			32 45
Oil, &c.	Dunham, Dunning & Co, 83 gallons oil, 9s.....		93 37
Discharged convicts,	9 convicts, receipts of, \$3 each, .....		27 00
	Balance carried forward, .....		10,583 06
			<u>\$13,492 34</u>

STATE OF NEW-YORK, }  
 CAYUGA COUNTY. } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the State-Prison, Auburn, being duly sworn do depose and say, that the above account of monies received and paid on account of said prison, during the month of March, 1832, is correct and true in every respect, according the best of their knowledge and belief, and further these deponents say not.

LEVI LEWIS,  
 H. BOSTWICK.

Sworn and subscribed before me  
 this 7th day of January, 1833.

J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No. 13.)

*Agent's return to the Inspectors, of the State Prison accounts for the month of April, 1832.*

STATE PRISON, AUBURN, }  
 May 1st, 1832. }

To the Inspectors of the State Prison, Auburn:

The Agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the State Prison, from the 1st to the 30th April, 1832.

1832.

April 1.	Balance of cash in Agent's hands, as per	
	March report,.....	\$10,583 06
30.	Cash received from the following sources	
	and persons, .....	
	Weave shop, R. Muir & Co.....	455 70
	Machine " Hitchcock & Wolcott, ....	320 00
	Check " Woods & Loudon,.....	133 83
	Stone " I. S. Miller,.....	\$45 71
	" " Hugh Watson,....	117 06
		<hr/>
		162 77
	Sattinet " P. H. Schenck & Co. ....	341 96
	Tailors' " Hotchkiss & Van Anden, ..	234 68
	Cabinet " T. Cherry, .....	725 00
	Hame " C. & P. Hayden, .....	294 73
	Coopers' " Abel Withey,.....	313 25
	Prison, J. Richardson, .....	25 00
	Button shop, E. R. Vreedenburgh, ....	80 88
	Shoe " E. & J. Pease, .....	457 00

Carried forward,.... \* \*

Brought forward,.....\*

1832.		
April 30.	Comb shop, Dunham, Dunning & Co.	201 19
	Clerk's office, weave shop, custom- ers,.....	\$32 50
	Smiths' " .....	25
	Visitors, .....	53 75
		<hr/> 88 50
		<hr/> \$14,415 55
May 1.	To balance per contra, brought forward,..	<hr/> <hr/> \$11,660 54

1832.		
April 30.	Cash paid on the following accounts, and to the following persons, for the gen- eral support of the prison:	
	Turnkeys and keepers, 1 mo. services, pay roll,	\$962 51
	Guard, 1 mo. services, pay roll,..	\$375 00
	J. P. Hubbard $\frac{1}{2}$ mo. services,..	12 50
	Wm. Backus, $\frac{1}{2}$ mo. " ..	12 50
		<hr/> 400 00
	Provisions, N. Garrow, 18,251 ra- tions, at 5 $\frac{1}{2}$ cts. ....	\$949 05
	H. Watson, hops and yeast,.....	4 75
	H. Watson & Sons, " .....	4 58
		<hr/> 958 38
	Hospital, J. G. Morgan, 1 mo. servi- ces,.....	41 66
	A. V. E. Youngs, hospital supplies,	6 47
	H. Ward, 62 qts. milk, at 4c. ....	2 48
	J. Darrow, bill of medicine,.....	15 47
	Asa Munger, surgical instrument,	1 43
		<hr/> 67 51
	Chaplain, B. C. Smith, 1 mo. servi- ces, .....	31 94
	G. Barker, 2 mo. services, .....	11 11
		<hr/> 43 05
	Clothing, A. Treat, 24 $\frac{1}{2}$ runs thread, at 4s. 8d. ....	13 78
	J. Hazen, 16 $\frac{1}{2}$ yds. duck at 28c... ..	4 69
		<hr/> 18 47
	Prison, Robt. Muir, 2 cwt. 4 lbs. iron, at 50s. ....	12 75
	$\frac{1}{2}$ gross awl blades,.....	2 06
	1 tenant saw,.....	2 50
	A. V. E. Young, 22 lbs. bees-wax, at 19c. ....	4 18
	Sam'l Fletcher, 7 $\frac{1}{2}$ lbs. tallow, at 10c.	73
		<hr/>
	Carried forward,..... *	



1832.			
April 30.	Brought forward,.....	\$	
	H. Oliphant, 4 weeks advertising, ..	1 25	
	J. Vreeland, burying two deceased convicts, .....	6 00	
	L. Whitmore, binding prison re- ports, .....	50	
	H. G. Van Dusen, team work, ....	3 18	
			33 15
	Stationary, J. S. Allen, printing 6 books adm. tickets, .....		18 00
	Charcoal, G. Post, 71 bushs. coal, at 8c. ....	5 68	
	137 bhs. at 7c. ....	9 59	
	J. Springsted, 66 bhs. at 5½c. ....	3 63	
			18 90
	Brooms, B. Underwood, two dozen brooms at 16s. ....	4 00	
	C. Osterhout, 33 splint brooms, at 8c. ....	2 64	
			6 64
	Horse, &c. G. Tyler ½ ton hay, at \$10, ....	5 00	
	Postage, Geo. B. Throop, 1 quarters' post- age, .....		17 59
	Prison, E. & L. Banker, repairing wa- ter-works, .....	3 00	
	Levi Lewis, travelling expenses to Albany, .....	23 88	
	Levi Lewis, " " " " " " " "	38 53	
			65 41
	Prison building, Dunham, D. & Co. 6½ M. lath, at 10s. ....	8 13	
	Edward Allen, 1,120 feet timber, at 8s. ....	11 20	
	Edward Allen, 1,120 " " at 6s. ....	8 40	
			27 73
	Clothing, Dunham, Dunning & Co. 66 lbs. wool, at 2s. 6d. ....		20 62
	Discharged convicts, 12 convicts receipts of \$3 each, .....		36 00
	Oil, &c. Dunham, Dunning & Co. 59 galls. oil, at 95c. ....		56 05
	Balance carried forward, .....		11,660 54
			<u>\$14,415 55</u>

STATE OF NEW-YORK, }  
CAYUGA COUNTY. } ss.

Levi Lewis, Agent, and H. Bostwick, clerk of the State Prison,  
Auburn, being duly sworn, do depose and say, that the above ac-

count of moneys received and paid on account of said prison during the month of April, 1832, is correct and true in every respect, according to the best of their knowledge and belief, and further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me,  
this 7th day of January, 1832.

J. L. RICHARDSON,  
*First Judge of Cayuga.*

(No. 14.)

*Agent's Return to the Inspectors, of the State Prison Accounts for the month of May, 1832.*

STATE PRISON, AUBURN, }  
June 1st, 1832. }

To the Inspectors of the State Prison, Auburn.

The agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the state prison, from the 1st to the 31st, inclusive, of May, 1832.

1832.

May 1.	Balance of cash on hand, as per report of April,	\$11,660 54
	P. H. Schenck & Co. on acc't sattinet shop,	314 32
	R. Muir & Co. on ac. cotton weave shop,...	451 97
	Woods & Loudon, on ac. check weave shop,.	131 78
	John Richardson, on ac. prison slops, .....	25 00
2.	Lyman Hinman, on ac. prison, .....	4 80
	Roswell Curtis, on ac. stone shop, .....	37 13
3.	Hotchkiss & Van Anden, on ac. tailors' shop,	100 00
	E. & J. Pease, on ac. shoe shop, .....	200 00
16.	Hotchkiss & Van Anden, on ac. tailors' shop,	126 92
30.	Hitchcock & Wolcott, on ac. machine shop,..	300 00
31.	Dunham, Dunning & Co. on ac. comb shop,..	185 12
	P. H. Schenck & Co. on ac. sattinet weave shop, .....	301 10
	Clerk's office, visiters, .....	\$78 25
	weave shop, .....	50 39
	smiths' shop, .....	2 12
	stone shop, .....	24 36
	prison, .....	38
		<hr/>
		155 50
		<hr/>
		\$13,994 18
		<hr/>

1832.

May 31. Paid to the following persons, and on the following accounts, for general support of prison:

Turnkeys and keepers, 1 mo. services each,			
pay roll,.....	\$775	01	
John P. Hubbard, 16 days			
services,.....	20	00	
Lyman Doty, 25 do. ....	30	82	
Charles G. Wood, 29 do. .	35	75	
			861 58
Guard, 1 mo. each, pay roll,.....	\$375	00	
John O'Conner, 22 days			
services,.....	19	35	
Joseph Minor, 30 days do.	24	19	
			418 54
Hospital, J. G. Morgan, 1 mo. services, .....	\$41	66	
S. A. Osborn, fresh meat, .	1	70	
Hugh Ward, milk,.....	2	40	
A. V. E. Youngs, hospital supplies, .....	7	22	
J. Darrow, bill medicine, .	9	02	
A. & J. Bostwick, hospital supplies, .....	96		
			62 96
Chaplain, B. C. Smith, 1 mo. services	\$31	94	
Gardner Baker,.....	5	55	
			37 49
Provisions, Nathaniel Garrow, 19,470 rations,			1,012 44
Clothing, Ashbel Treat, 34 runs thread	\$19	13	
do 29 do	16	31	
Auburn manufacturing co.			
cotton yarn,.....	83	44	
J. I. Evertsen, bill of duck,	107	01	
Townsend, King & Co. bill of blankets,.....	271	88	
Elijah Sheldon, 95 lbs. wool,	29	45	
Geo. W. Young, 54½ do	14	17	
P. H. Schenck & Co. 5 bales wool, .....	311	61	
			853 00
Prison, E. Bradley, wire and pipes,	\$1	98	
L. Hinman, whitewash brushes	6	00	
Harry Axtell, transporting muskets, .....	90		
Whiteside & Cramer, transporting duck, &c.	7	68	
do do iron, &c.	3	92	
Carried forward,....	\$		\$

Brought forward,..... \$      \$

1832.

May 31. Prison,	E. B. Cobb, 16 doz. knives and forks, .....	15 00	
			35 48
	Horse, &c. Dows Doty, $\frac{1}{2}$ ton hay, .....		5 00
	Soap, Abner Beach, 76 lbs. grease,....		3 04
	Oil and candles, Dunham, Dunning & Co. 29 galls. oil,.....		27 55
	Discharged convicts, 9 discharged convicts,.		29 00
Paid to the following persons and for the following purposes, on account of prison build- ing, under an "Act in relation to state prisons," passed 25th April, 1832.			
Prison building, David Mills, 1 mo. services as master mason, \$50 00			
	John Mills, 1 mo. do do	50 00	
	Wm. Bruce, 1 mo. do smith,	50 00	
	Saml. A. Gould, 33 loads sand,	12 38	
	Geo. B. Chase, 1,008 bush. lime	126 00	
	W. G. Simpson, 700 feet lath,	3 85	
	Josiah Barbour, lumber,.....	14 33	
	Whiteside & Cramer, freight of iron,	119 63	
	do do	179 15	
	Josiah Barbour, lumber,.....	18 94	
	Roswell Osborne, 724 $\frac{1}{2}$ bush. coal, .....	42 57	
	Smith & Hall, 400 feet lath, .	2 20	
			669 05
	Balance carried to June account, .....		9,979 05
			<u>\$13,994 18</u>

STATE OF NEW-YORK, }  
CAYUGA COUNTY. } ss.

Levi Lewis, Agent and Keeper, and H. Bostwick, clerk, of the state prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of the state prison at Auburn, during the month of May, 1832, is correct and true in every respect, according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me  
this 26th day of June, 1832.

H. TIFFT,  
*Commissioner of Deeds.*

## (No. 15.)

*Agent's return to the Inspectors, of the State Prison accounts for the month of June, 1832.*

STATE PRISON, AUBURN, }  
July 1st, 1832. }

To the Inspectors of the State Prison, Auburn:

The Agent respectfully reports, that the following is a correct return of all monies received and paid by him on account of the State Prison, from the 1st to the 30th June 1832, inclusive. 1832.

June 1. Balance of cash in Agent's hands, as per May report, .....	\$9,979	05
Cash received from the following persons and sources:		
R. Muir & Co. on ac. cotton weave shop,	433	02
T. Cherry, " cabinet and chair "	375	00
E. & J. Pease, " shoe shop, .....	150	00
2. C. & P. Hayden, " hame " .....	200	00
9. A. Withey, " cooper's shop, .....	242	35
15. Wood & Loudon, " check weave shop, ..	113	62
18. Elijah Cole, " stone shop, .. 47 13		
20. Carpenter & Bodley, on note, " .. 21 00		
	68	13
A. Withey, on ac. cooper's shop, ....	296	28
C. & P. Hayden, " hame shop, .....	491	25
28. P. H. Schenck & Co. on ac. sattinet weave shop, .....	357	40
E. & J. Pease, on ac. shoe shop, .....	200	00
30. Dunham, Dunning & Co. on ac. comb shop,	201	35
Dudley Everts, on ac. carpenter's shop, ..	34	00
Gardner Jeffries, on note, smith shop, ...	10	00
Bradley Tuttle, " stone " ...	31	01
Clerk's office, visitors, .....	80	75
Weave shop, .....	36	36
Stone shop, .....	2	00
	119	11
To the following sums, now charged to the Agent, pursuant to the 12th section of " An act relative to State Prisons," passed 25th April, 1832.		
J. A. Selover, paid on ac. 29th Nov. 1830, carpenter's shop, .....	273	00
D. Hayden & Co. on ac. July, 1830, but-ton shop, .....	2400	
Carried forward, .....		

Brought forward,..... \$

1832.

June 30. E. & J. Pease, on ac. 1st Dec. 1830, shoe  
shop, ..... 50 00

\$13,648 55

1832.

July 1. Balance per contra bro't from June report,. \$9,678 02

1832.

June 30. Paid to the following persons, on the follow-  
ing accounts, for general support of prison,  
viz:

Turnkeys and keepers, pay roll, 1 mo.  
services, ..... \$812 51

Moses Brown, 6 days servi-  
ces, ..... 7 39

J. Hawes, 21 days services,. 29 86

849 76

Guard, pay roll, 1 month services,..... 425 00

Hospital, J. G. Morgan, 1 month  
services..... \$41 66

J. Darrow, bill of medicine,. 12 04

H. Ward, 62 qts. milk,... 2 48

A. V. E. Young, hospital sup-  
plies, ..... 2 53

E. B. Cobb, " .... 2 98

61 69

Chaplain, B. C. Smith, 1 mo. services..... 31 94

Provisions, N. Garrow, 19,881 rations, ..... 1,033 81

Prison, J. Freeland, burying 2 deceas-  
ed convicts, ..... 6 00

R. Muir, bill of iron and steel, 8 72

Lyman Hinman, 6 brushes,... 6 00

Abel Withey, 2 lots staves, ... 3 60

M. Foot, Williams' Annual Re-  
gister, ..... 1 50

M. C. Reed, 95 bibles, ..... 54 28

Dudley Everts, bill of tools,... 11 00

T. J. McMaster, tackle and rope, 31 01

Dunham, Dunning & Co. rope, 5 81

127 90

Clothing, H. C. Tuttle, 804 lbs. wool,..... 20 06

Soap, John Kilburn, 220 lbs. grease,..... 11 20

Oil and candles, Dunham, Dunning & Co. 294  
galls. oil, ..... 23 60

Carried forward,..... \$

Brought forward,..... \$

1831.

June 30. Discharged convicts, R. Stringham, M. Fitzpatrick, B. Kiersey, J. Richardson, J. Brown, H. D. House, H. Richardson, J. F. Gifford, J. Emory, J. Francis, T. Mumford, C. A. Johnson, H. J. Vanvalkenburgh, T. Smith, D. W. Allen, J. W. Myers, J. Moran, J. Hosey, John Jones, P. Warner, H. Dilworth, B. Lester.

1	convict rec'd \$5, is.....	5	00
14	" 3 each, is.	42	00
3	" 2 " ..	6	00
4	" 1 " ..	4	00

57 00

Paid to the following persons on the following accounts, for constructing 220 cells, viz:

Prison Building, David Mills, 1 mo. services,..... \$50 00  
 John Mills, 1 mo. services, .. 50 00  
 Wm. Bruce, 1 mo. " .. 50 00  
 Dudley Everts, 22 days services, ..... 33 00  
 Dudley Everts, bill lumber,.. 84 88  
 Elam Sheldon, " .. 66 73  
 Whiteside & Cramer, bill frei't, 13 30  
 " " " 81 05  
 " " " 20 55  
 " " " 7 99  
 Abel Withey, scaffold poles, &c. 20 75  
 Edward Allen, bill lumber,... 6 37  
 Saml. A. Gould, bill sand,.... 22 50

509 12

\$3,151 08

Balance caried down,.... \$10,497 47

*Deduct* from this balance certain corrections in Agent's accounts, to shew *true* balance of Agent's cash accounts, as follows:

Cooper's shop, cash paid J. Porter and G. B. Throop, fees and costs in suit against Allen Warden, allowed by the Comptroller, but not before passed to

Carried forward,..... \$

Brought forward,.....\$

1832.  
June 30.

credit of Agent on prison  
books, ..... \$293 52  
Cash, this sum charged to  
the Agent by the  
late clerk of this  
prison, and now  
credited to the A-  
gent, pursuant to  
the 12th sec. of "An  
act relative to Sta.  
Prisons," passed  
25th April, 1832, . 525 93

819 45

Balance as corrected, carried to July ac... 9,678 55

\$13,648 55

STATE OF NEW-YORK, }  
CAYUGA COUNTY. } ss.

Levi Lewis, Agent and keeper, and H. Bostwick, clerk of the State Prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of said prison, during the month of June 1832, is correct and true, in every respect, according to the best of their knowledge and belief, and further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me,  
this 23d day of July, 1832.

H. TIFFT,  
*Commissioner of Deeds.*

(No. 16.)

*Agent's return to the Inspectors, of the State-Prison accounts for  
the month of July, 1832.*

STATE-PRISON, AUBURN, }  
August 1, 1832. }

To the Inspectors of the State-Prison, Auburn.

The Agent respectfully reports, that the following is a correct account of all monies received and paid by him on account of the State-Prison, from the 1st to the 31st of July, 1832, inclusive.



1832.

July 1.	Balance of cash in hand, as per June report,	\$9,678 02
	Cash received from the following persons and sources:	
2.	R. Muir & Co., on ac't, weave shop,.....	477 62
	T. Cherry, on ac't, chair shop,.....	290 00
	A. Withey, on ac't, coopers' shop,.....	172 00
	Hotchkiss & Van Anden, on ac't, tailors' shop,	469 95
	E. R. Vreedenburgh, on a'ct, button shop,..	85 00
6.	T. J. McMaster & Co., on note, tool shop,..	700 00
11.	Abel Withey, on ac't, coopers' shop,.....	100 00
12.	Dudley Everts, on note, carpenters' shop,..	42 00
21.	T. Cherry, on ac't, chair shop,.....	100 00
25.	Hitchcock & Wolcott, on ac't, machine shop,	66 66
27.	Abel Withey, on ac't, coopers' shop,.....	200 00
31.	Dunham, Dunning & Co., on ac't comb shop,	185 19
	P. H. Schenck & Co., on ac't, satinett shop,	331 42
	Abel Withey, on ac't, coopers' shop,.....	43 00
	I. S. Miller, on ac't, stone shop,.....	48 70
	E. & J. Pease, on ac't, shoe shop,.....	266 90
	Dudley Everts, on note, carpenters' shop,..	19 25
	C. & P. Hayden, on ac't, hame shop,.....	5 00
	Clerk's office, weave shop,.....	\$45 29
	Prison, .....	10 22
	Stone shop, .....	2 20
	Carpenters's shop,.....	44
		<hr/> 58 15
		<hr/> <b>\$13,338 86</b> <hr/>

1832.

Aug. 1.	Balance per contra bro't from July ac't, ....	<b>\$9,578 37</b>
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Cash paid to the following persons on the following accounts:

Turnkeys & keepers, pay roll,.....	\$849 01	
Guard, Pay roll,.....	375 00	
John O'Conner, 8 days services, .....	6 45	
R. Darwin, 26 do,.....	20 97	
R. Jenkins, 23 do,,.....	18 55	
W. Yelverton, 16 do,....	12 90	
		<hr/> 433 87
Matron, Lucinda Foot, 1 mo. 5 days do,....		18 66
Chaplain, B. C. Smith, 1 mo. services, \$31 94		
G. Baker, 3 mo. service	16 65	
		<hr/> 48 59
Hospital, J. G. Morgan, 1 mo. do,..	\$41 66	
		<hr/>
Carried forward,.....	\$	\$

	Brought forward,.....\$	\$	
1832.			
July 31. Hospital, J. Darrow, bill medicine,..	17	88	
A. V. E. Young, hospital supplies,.....	1	91	
H. Ward, 60qts. milk,....	2	40	
Carhart & Polhemus, 2brls. flour, .....	11	00	
			74 85
Provisions, N. Garrow, 20,717 rations,.....			1,077 28
Prison, P. Holley & Co., bill catgut, \$0 25			
J. Vreeland, burying deceased convict, .....	3	00	
L. Hinman, whitewash brushes	10	00	
T. J. McMaster & Co. tools &c., .....	6	25	
Hunt & Co. bill paints,....	13	18	
J. Barbour, team work,..	3	00	
Geo. B. Throop, postage ac.	6	82	
I. S. Miller, bill sundries,..	48	70	
Fitch, Bartlett & Co., needles,.....	19		
Wm. Goodwin, glass,.....	4	97	
			98 36
Shoe shop, R. Muir, awl blades, &c., \$11 31			
E. & J. Pease, lasts, &c.,..	42	93	
			54 24
Clothing, E. J. Pease, upper leather, \$34 25			
A. Stowe, bees wax,.....	1	88	
A. Treat, sewing thread,..	3	09	
I. Hitchcock, sole leather,. 66 66			
D. K. Culver,.....	5	00	
			110 88
Fire wood, Elias Withey, 63 cords wood,			118 12
Soap, J. Kilburn, 123lbs. grease, \$6 15			
J. Kilburn, 145 do .....	7	25	
J. Kilburn, 120 bush. ashes, 10 80			
J. Kilburn, 52 lbs. grease,. 2 60			
			26 60
Oil & candles, Dunham, Dunning & Co., 37			
gals oil,.....			29 60
Discharged convicts, Joseph Dufrine, C. Carmichael, Francis Kellogg, Edson Barbour,			
1 convict receipt, \$5,.....	\$5	00	
3 do \$3,.....	9	00	
			14 00
Amount paid for general support,.....	\$2,952	28	
Prison building, D. Mills, 1 mo. ser.	\$50	00	
	Carried forward,.....\$	\$	

Brought forward,.....\$ ' \$

1832.

July 31. Prison building, J. Mills, 1 mo. ser.,	50 00	
W. Bruce, 1 mo. do,.....	50 00	
Dudley Everts, 23½ days do.	35 25	
R. Osborn, 903½ bush. coal, at \$5.50,	49 70	
Harley Lord, pine lumber,.....	362 32	
Whiteside & Cramer, freight,.....	17 09	
C. Crippin, carting lumber,.....	48 72	
L. Dunning, Stone,.....	4 00	
Whiteside, Cramer & Co., freight,.	30 02	
A. Withey, scaffold poles, &c.,....	43 00	
Levi Lewis, expenses buying lumber,	4 13	
C. & P. Hayden, 91 bush. coal,....	5 00	
Sam'l A. Gould, 104 loads sand,...	39 00	
		808 23
Balance carried to August account,.....	9,578 37	
		<u>\$13,338 86</u>

STATE OF NEW-YORK, }  
 CAYUGA COUNTY. } ss.

Levi Lewis, Agent and Keeper, and H. Bostwick, clerk of the State-Prison, Auburn, being duly sworn do depose and say, that the above account of moneys received and paid on account of said prison, during the month of July, 1832, is correct and true in every respect, according the best of their knowledge and belief, and further these deponents say not.

LEVI LEWIS,  
 H. BOSTWICK.

Sworn and subscribed before me  
 this 20th day of August, 1833.

H. TIFFT,  
 Commissioner of Deeds.

(No. 17.)

*Agent's Return to the Inspectors, of the State Prison Accounts for  
 the month of August, 1832.*

STATE PRISON, AUBURN, }  
 September 1st, 1832. }

To the Inspectors of the State Prison, Auburn,

The Agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the state prison, from the 1st to the 31st of August, 1832.

1832.

Aug. 1. Balance of cash in Agent's hands, as per July report, .....	\$9,578 37
Cash received from the following persons and sources:	
R. Muir & Co. cotton weavers' shop, .....	439 60
Cherry & Seymour, cabinet and chair shop, .	287 25
4. E. R. Vredenburg, button shop, .....	40 00
6. Isaac A. Selover, carpenters' shop, .....	69 75
7. E. R. Vredenburg, button shop, .....	40 00
8. E. Williams, stone shop, .....	\$275 48
shoe shop, .....	208 48
smiths' shop, .....	76 37
turners' shop, .....	12 85
coopers' shop, ... ..	2 43
carpenters' shop, ....	1 25
	576 86
10. Hotchkiss & Van Anden, tailors' shop, .....	202 74
Woods & Loudon, check weavers' shop, ....	254 22
13. Hitchcock & Wolcott, machine shop, .....	200 00
18. Geo. Chase, smiths' shop, .....	\$2 68
stone shop, .....	14 65
	17 33
25. Geo. Holley, stone shop, .....	34 42
Carpenter & Bodley, do .....	21 75
31. C. & P. Hayden, hame shop, .....	260 00
E. & J. Pease, shoe shop, .....	309 81
Dunham, Dunning & Co. comb shop, .....	189 13
William Backus, japan button shop, .....	106 25
Hitchcock & Wolcott, machine shop, .....	415 52
P. H. Schenck & Co. sattinet weavers' shop, .	227 47
Edward Allen, turners' shop, .....	14 43
E. R. Vredenburg, button shop, .....	100 00
Clerk's office, weavers' shop, .....	\$29 64
stone do .....	46 14
prison, .....	1 00
visitors, .....	1 50
	78 28
	<u>\$13,463 18</u>

1832.

Aug. 31. Cash paid on the following accounts, and to the following persons, for the general support of the prison:	
Turnkeys and keepers, pay roll, ..	\$812 51
Lyman Doty, 26 days services, .....	32 05
Carried forward, .....	\$

Brought forward, . . . \$		
1832.		
Aug. 31.	Moses Brown, 6 days services, . . . . .	7 40
		<hr/>
		851 86
	Guard, Pay roll, . . . . .	325 00
	Matron, Lucinda Foot, 1 mo. services, . . .	16 00
	Chaplain, B. C. Smith, 1 mo. do . . . .	31 94
	Hospital, J. G. Morgan, 1 mo do \$41 66	
	do expenses to Utica, 10 00	
	A. V. E. Young & Co. hospital supplies, . . . . .	4 22
	J. Darrow, bill medicine, . . . . .	10 70
	Hugh Ward, 62 qts. milk, . . . . .	2 48
	Lush & Fanning, fresh meat, . . . . .	56
		<hr/>
		69 62
	Provisions, N. Garrow, 20,654 rations, . . . .	1,074 01
	Stationary, U. F. Doubleday, blank books, &c.	9 00
	Clothing, R. Muir & Co. 172 $\frac{1}{8}$ lbs. yarn, No. 14, . . . . .	\$48 18
	Ashbel Treat, 9 runs thread, . . . . .	5 06
	Geo. C. Williams, leather, . . . . .	574 06
	Collins Bradley, 300 gross buttons, . . . . .	75 00
		<hr/>
		702 30
	Prison, A. V. E. Young & Co. 1 bl. tar, . . . . .	\$4 50
	Geo. C. Williams, hides, skins and hair, . . . . .	44 76
	Geo. B. Chase, cutting stone, . . . . .	24 20
	E. Corning & Co. sundries, . . . . .	118 09
	Dunham, Dunning & Co. combs, &c., . . . . .	14 17
	Collins Bradley, tools, . . . . .	31 25
		<hr/>
		236 97
	Soap, J. Kilburn, 112 bush. ashes, } \$15 20	
	80 lbs. grease, } 10 60	
	106 bush. ashes, } 11 37	
	104 do } 9 70	
	194 lbs. grease, } 10 00	
	97 bush. ashes, } 56 87	
	100 do } 4 50	
	Hay, &c. Edmund Wheaton, 1 load hay, . . .	6 46
	Brooms, Stephen Bunnell, 41 brooms, . . . .	61
	Oil and candles, Dunham, Dunning & Co. 61 galls. oil, . . . . .	53 30
	Discharged convicts, Duncan Campbell, \$3 00	
	E. J. Willcox, . . . . .	3 00
		<hr/>
	Carried forward, . . . . . \$	\$

Brought forward,..... \$ \$

**1832.**

Aug. 31. Discharged convicts, Geo. Hunt, . . . . .	3 00
J. Woodbeck, . . . . .	3 00

**J. Woodbeck, . . . 3 00**

**12 00**

**Amount paid for general support,.... . \$3,549 93**

**1832.**

**Aug. 31.** Cash paid on the following accounts, and to the following persons, for building cells:

Prison building, David Mills, 1 mo.

services, \$50 00

John Mills, 1 mo.	do	50 00
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Wm. Bruce, do	do	50 00
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**Dudley Everts, 25½ days do 38 25**

**Allen Wenden, build'g stone, 189 85**

Hitchcock & Wolcott, cast

**iron,..... 415 52**

Edward Allen, scaffold b'ds, 80 38

**Saml. A. Gould, 178 loads**

**sand, . . . . . 66 75**

**Chas. Saxton, 20,800 brick, 83 20**

E. Corning & Co. iron, &c. 3,399 70

Chas. Saxton, 20,000 brick, 80 00

Geo. B. Chase, stone and

lime, ..... 414 71

**Ira Mason, team work,.... 1 75**

Allen Wenden, stone,..... 561 77

Whiteside, Cramer & Co.

freight, .....	11 88
----------------	-------

Dudley Everts, handle tim-

ber, ..... 4 00

J. A. Selover, 16,412 brick. 69 75

R. Osborne, 1,244½ bushels

coal, . . . . .	68 45
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Dudley Everts, expenses, ..	81
-----------------------------	----

Amount paid for building cells, ....	5,636 77
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Errors,	Pay roll for July short added,.....	1 00
---------	-------------------------------------	------

Balance carried to September account, . . . . .	4,275 48
---	----------

**\$13,463 18**

STATE OF NEW-YORK, } ss.  
CAYUGA COUNTY.

## CAYUGA COUNTY.

Levi Lewis, Agent and Keeper, and Hiram Bostwick, clerk of the state prison, Auburn, being duly sworn do depose and say, that the above account of moneys received and paid on account of said

state prison during the month of August, 1832, is correct and true in every respect, according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me  
this 19th day of September, 1832.

H. TIFFT,  
*Commissioner of Deeds.*

(No. 18.)

*Agent's return to the Inspectors, of the State Prison accounts for  
the month of September, 1832.*

STATE PRISON, AUBURN, }  
October 1st, 1832. }

To the Inspectors of the State Prison, Auburn:

The Agent respectfully reports, that the following is a correct return of all moneys received and paid by him on account of the State Prison, from the 1st to the 30th September, inclusive, 1832.

1832.

Sept. 1.	Balance of cash in Agent's hands, as per Agent's report,.....	\$4,275 48
30.	Cash received from the following persons and sources, viz :	
	P. H. Schenck & Co. sattinet w. shop,....	253 56
	Abel Withey, cooper's shop, .....	666 74
	Cherry & Seymour, cabinet and chair shop,	668 25
	R. Muir & Co. cotton w. shop, .....	484 80
	Dudley Everts, carpenter's shop, \$34 00	
	Daniel Fries, " 64	
		34 64
	Gardner Jeffries, smith shop.....	4 00
	Skinner & Hills, " .....	20 38
		24 38
	Hotchkiss & Van Anden, tailor's shop,....	227 31
	Geo. Holley, stone shop, .....	50 00
	I. S. Miller, " .....	28 16
	A. D. Leonard, " .....	10 12
	David Fries, " .....	83 56
		171 84
	Carried forward,.....	\$

	Brought forward,.....	\$	
1832.			
Sept. 30.	C. & P. Hayden, hame shop,.....	300	00
	Dunham, Dunning & Co. comb shop,.....	180	50
	Supervisors of St. Lawrence co. prison,...	114	20
	Hitchcock & Wolcott, machine shop,.....	521	72
	Clerk's office, custom weave shop,..	55	51
	Stone shop, .....	9	68
	Smith " .....	3	00
	Prison, .....	1	00
	Visitors, .....	47	00
		<u>116</u>	<u>19</u>
		<u>\$8,035</u>	<u>61</u>
1832, Oct. 1.	Balance of cash in Agent's hands per		
	contra, .....	\$2,699	07

1832.			
Sept. 30.	Cash paid this month on the following ac-		
	counts, and to the following persons, viz:		
	Turnkeys and keepers, pay roll,...	\$737	51
	Lyman Doty, 25 days ser-		
	vices,.....	30	81
	Jonathan Hawes, 28 days		
	services, .....	34	51
	Chas. G. Wood, 20 "	24	65
	John Hask, 26 "	32	06
	Nathaniel Kniffen, 15 "	18	49
		<u>878</u>	<u>03</u>
	Guard, pay roll,.....	400	00
	J. M. Brown, 11 days servi-		
	ces, .....	9	17
	Wm. Backus, 11 days ser-		
	vices, .....	9	17
	Robt. Jenkins, 28 "	23	33
		<u>441</u>	<u>67</u>
	Matron, Lucinda Foot, 1 mo. services,.....	16	00
	Chaplain, B. C. Smith, 1 " "	31	94
	Gardner Baker, 2 mo. "	11	10
		<u>43</u>	<u>04</u>
	Hospital, J. G. Morgan, 1 mo. "	41	66
	A. V. E. Young, hospital sup-		
	plies.....	1	51
	Hugh Ward, 62 qts. milk, at		
	4cts. ....	2	48
	Hunt & Co. bill medicine,...	6	42
	J. Darrow, " ...	18	01
		<u>Carried forward,.....</u>	<u>\$</u>



Brought forward,..... \$

1232.

Sept. 30.	Hospital, Chester Fanning, meat,..	72	
	F. Hamilton, 7 days services,	7 00	
	B. Fosgate, repairing electric machine,.....	1 00	
	Hunt & Co. bill medicine,..	17 12	
	A. D. Leonard, 4 brls. flour,	23 00	
	A. & S. Bostwick, hospital supplies, .....	9 32	
	Steel, Cook & Co. bill medicine, .....	46 88	
	G. C. Skinner, 50 lbs. chloride lime, .....	6 30	
			181 50
	Provisions, N. Garrow, 20,002 rations, at 5½cts.....	1,040 10	
	Geo. W. Titus, 18½ lbs. hops, at 1s. 6d. ....	3 52	
			1,043 62
	Clothing, Asbel Treat, 14½ runs thr'd,	8 16	
	Robt. Muir, 30 lbs. shoe th'd, at 60c. ....	18 00	
	Hunt & Co. 110 lbs. logwood, at 2½c.; brl. 2s.....	3 00	
	E. Hills, ¼ gross thimbles, at 16s. ....	1 00	
	" 8 gross iron buttons, at 1s. 3d,.....	1 25	
	A. V. E. Young & Co. 2 bed cords, .....	75	
	Mrs. Recd, 57 lbs. wool, at 30c.....	17 10	
	Geo. C. Williams, 99 lbs. neat's leather, at 3s. 6d,..	43 31	
	Dunham, Dunning & Co. 14 lbs. wool, at 30c.....	4 20	
	Vreedenburgh & Fifield, sundries,.....	11 36	
	Steel, Cook & Co. twine and bed cords,.....	4 12	
	Josiah Barber, 438½ lbs. wool, at 35c.....	153 56	
			265 81
	Soap, A. & J. Bostwick, 58 lbs. soap, at 8cts. ....	4 64	
	John Kilburn, 96½ bhs. ashes, at 10c.....	9 65	
	" 214½ " " " " " "	21 45	

Carried forward,..... \$

Brought forward,.....\$

1832.

Sept. 30.	Soap, R. Jenkins, 30 lbs. grease, at 5c.....	1 50	
	J. Kilburn, 168 lbs. grease, at 7c.....	11 78	
			49 00
	Stationary, U. F. Doubleday, blank book .....	5 00	
	H. Ireson & Co. bill sundries,	5 38	
	Geo. C. Skinner, 4 reams paper, .....	14 00	
			24 38
Prison,	A. & J. Bostwick, sundries,	1 91	
	John Freeland, burying deceased convict, .....	3 00	
	E. Hills, 18½ lbs. hoop iron, at 9c. ....	1 67	
	Hotchkiss & Van Anden, sundries, .....	27 29	
	C. B. De Remer, repairing lock, .....	1 50	
	R. & J. Patty, 1 weaver's reed. ....	1 00	
	A. Wheeler, 1 do	2 00	
	I. S. Miller, sundries, .....	11 43	
	J. B. Hyde, & Co. 2 gouges,	69	
	Steel, Cook & Co. sundries,	8 42	
	David Fries, pine timber, .	6 00	
	Geo. B. Chase, stone, &c...	6 60	
	Fitch, Bartlett & Co. 1 piece ribbon, .....	25	
	Loring Willard, sundries, ..	81 61	
			153 37
	Horse, &c. D. R. Stone, 2½ tons hay, at \$8, .		20 00
	Oil and candles, Dunham, Dunning & .....		
	Co. 29½ galls. oil, .....	28 03	
	Steel, Cook & Co. 7½ lbs. candlewick, .....	2 15	
			30 18
	Discharged convicts, 12 convicts, \$3 each, is .....	36 00	
	1 each of \$5, 2 and 1, .....	8 00	
			44 00
	Prison building, David Mills, 1 mo. services, .....	50 00	
	John Mills, 1 mo. services,	50 00	
	Wm. Bruce, 1 " "	50 00	

Carried forward,.....\$

Brought forward,..... \$

1882.

Sept. 30. Prison Buildings, D. Everts, 24 days,	36	90
Roswell Osborn, 1,126 bush.		
coal, at 5½c. ....	61	93
Levi Hopkins, 1,992 feet		
boards, at 6s. ....	14	94
Chas. Saxton, 80,545 brick,		
at \$4, ....	322	18
David Fries, 19,570 brick,		
at \$4, ....	78	28
Whiteside, Cramer & Co.		
freight, ....	10	76
Hunt & Co. Paints and oil,	31	69
I. S. Miller, 199½ lbs. lead,		
at 8c. ....	15	98
"       2 files, at 3s. ...		75
Aurelius Wheeler, 4,478 ft.		
oak, at 9s. ....	50	37
Abel Withey, 10 scaffold		
poles, at 6s. ....	7	50
"       2½ days team-work,		
at 16s. ....	5	00
James Bassett, 1,009½ bush.		
coal, at 5½c. ....	50	47
Philip Hurd, 13 lbs. rope,		
at 16c. ....	2	08
Saml. A. Gould, 218 loads		
sand, at 3s. ....	81	75
A. Merritt, 54½ lbs. rope,		
at 1s. 4d, ....	9	08
E. Hills, 80 lbs. lead, at 7½c.	6	00
Dunham, Dunning & Co. 30		
galls. oil, at 95c. ....	28	50
Allen Warden, bill of stone,	429	49
J. B. Hyde & Co. sundries,	46	89
Geo. B. Chase, stone & lime,	120	38
Roswell Osborn, 1,031 bush.		
coal, at 5½c. ....	56	70
Steel, Cook & Co. paints		
and oil, ....	23	37
Hitchcock & W. brass and		
iron castings, ....	271	72
Loring Willard, iron, steel,		
lead, &c. ....	34	13
		<hr/>
		1,945 94
Balance carried to October account,.....		2,899 07
		<hr/>
		\$8,035 61
		<hr/>

STATE OF NEW-YORK. }  
CAYUGA COUNTY, } ss.

Levi Lewis, Agent and keeper, and Hiram Bostwick, clerk of the State Prison, Auburn, being duly sworn, do depose and say, that the above account of moneys received and paid on account of said prison, during the month of September 1832, is correct and true in every respect according to the best of their knowledge and belief. And further these deponents say not.

LEVI LEWIS,  
H. BOSTWICK.

Sworn and subscribed before me  
this 17th day of December, 1832.

H. TIFFT,  
*Commissioner of Deeds.*

## (No. 19.)

## STATEMENT

Of all the monies received, and the sources from whence received, and of all monies paid, and on what account paid, by the Agent of the State-Prison, Auburn, during the year ending September 30, 1832.

1831.		1832.	
Oct. 1. Balance of annual account, as settled this day with Comptroller,.....		Sep. 30. Cash expended for general support, and building 220 cells, during the year ending this day.	
1832. Cash received on the following accounts, Sept. 30. during the year ending this day, viz:			
Comb makers, .....	\$14,208 99	Guard,.....	\$11,014 96
Coopers,.....	2,194 27	Chaplains, .....	4,933 03
Tool makers, .....	3,422 17	Hospital and surgeon,.....	455 46
Shoe makers,.....	1,100 00	Matron, .....	892 48
Charged to Agent per act 25th April, 1832,.....	\$3,293 19	Provisions, .....	50 66
	50 00	Oil and candles,.....	12,115 58
		Prison building and cells,.....	694 03
Bedtick weavers,.....	3,343 19	Fire wood,.....	10,074 27
Button makers,.....	4,931 53	Discharged convicts,.....	1,367 14
Charged to Agent per act 25th April, 1832,.....	\$714 06	Soap,.....	399 00
		Charcoal,.....	211 43
		Brooms,.....	208 37
Machinists,.....	738 06	Stationary,.....	79 10
Blacksmiths, .....	3,476 98	Postage, .....	102 00
Cabinet & chair makers,.....	282 09	Horse, &c.,.....	29 57
Hame makers,.....	3,780 33	Clothing,.....	78 75
	2,512 44		\$3,734 08

SENATE

Check weavers,.....	1,213 14
Satinet weavers,.....	3,847 27
Tailors,.....	2,390 94
Coverlet weavers,.....	920 51
Carpenters, .....	\$370 54
Charged to Agent per act 25th April, 1832,.....	273 00
<hr/>	
Japan button makers,.....	643 54
Stone cutters, .....	106 25
Visitors, .....	1,370 66
Prison, .....	1,221 90
Slops do .....	\$27 08
U. S. Marshal,.....	50 00
Sup's of St. Lawrence county,.....	64 69
Balance in clerk's desk, Oct. 1, 1831,.....	110 20
	30 80
<hr/>	
	262 77
<hr/>	
	\$51,837 03

Clothing, posted to bedding, ..	4 69	
Prison, miscellaneous items, ..	1,582 68	
Counsel fees and costs, .....	293 52	
Lasts for shoemakers, .....	54 24	
Repairs on water works, ....	3 00	
Needles for tailors, .....	5 62	
Errors corrected, credited agent per act 25th April, 1832, .....	\$525 93	1,939 06
Balance in clerk's desk, before charged, .....	30 80	
Receipts from visitors over add- ed, .....	1 65	
Pay roll for July, short added, ..	1 00	
Balance, cash in Agent's hands, .....		559 38 2,899 07
		<hr/> \$51,837 03

## (No 20.)

*A detailed statement of the monies expended by Agent, under the first section of an act, entitled "An act relative to State-Prisons," passed April 25, 1832, for building 220 cells.*

<b>Labor, John Mills, 8 mo. services as master</b>		
mason, at \$50, .....	\$400	00
David Mills, 7 mo. do do at \$50, ..	350	00
W. Bruce, 8 mo. do as master smith,		
at \$50, .....	400	00
Dudley Everts, 127½ days' services as		
master carpenter, at 12s. ....	191	25
Thomas Fulton, 2 days' labor, at 7s.,...	1	75
		<hr/>
		\$1,343 00
<b>Brick, Adam Fries, 23,900 brick, at \$4, ....</b>		
David Fries, 17,525 do at \$3.87½	67	90
C. Jeffries, 50,000 do at \$3.75.	175	00
J. Tefft, carting the same, at 75cts.....	37	50
J. Selover, 5,000 brick, at \$4.25, .....	21	25
J. A. Selover, 16,412 do at \$4.25, .....	69	75
Chas. Saxton, 142,295 do at \$4, .....	569	18
54,350 hard do at \$6, .....	326	10
		<hr/>
		1,362 28
<b>Timber and lumber, F. Gibbs, 3,914 }</b>		
feet, at 8s., .....	} Lumber,	\$55 88
937 feet, at 14s., .....		
M. Howe, 504 feet, at 8s., ... }	} do	7 77
156 feet, at 14s., .....		
C. Sperry, 926 feet, at 6s.,	do	6 94
J. Barbour, 4,437 feet, at 6s.,	do	33 27
E. Sheldon, 9,706 do at 5s 6d	do	66 73
L. Hopkins, 1,992 do at 6s	do	14 94
A. Wheeler, 4,478 do at 9s timber,		50 37
E. C. Willis, 5,429 do at 6s	do	40 72
J. Hopkins, 3,134 do at 6s	do	23 50
E. Allen, 19,514 do at 6s	do	146 34
2,742 do at 8s	do	27 42
2 sticks, at \$2, .....		4 00
D. Everts, 8,076 feet at \$10.50, pine, ..		84 88
H. Lord, 24,226 do pine lumber, at \$11,		266 49
49½ m. shingles, at \$2.34, .....		115 63
C. Crippen, carting the same, .....		48 72
L. Lewis, expenses to Ithaca, to purchase		
same, .....		4 13
D. Everts, do to measure the same, ..		81
J. H. Bostwick, 1,700 feet plank, at 12s,		25 50
		<hr/>
		1,024 24
<b>Carried forward, .....</b>		
		<hr/>

Sand, S. A. Gould, 917 loads sand, at 3s,.... \$343 88  
 17 do gravel; at 3s,.. 6 38

350 26

Lath, Dunham, Dunning & Co. 6½m. lath, at  
 10s, ..... \$8 13  
 W. G. Simpson, 700 feet, do 3 85  
 Smith & Hall, 400 do do 2 20  
 M. Barhite, 800 do do 4 00  
 L. Hamblin, 8½ m do 8 10

26 28

Lime, G. B. Chase, 6,489 bush lime, at 1s,.....  
 Coal, J. Bassett, 1,009½ bhs coal, at 5cts,... \$50 48  
 C. & P. Hayden, 91 do do at 5½ cts,.. 5 00  
 R. Osborn, 6,077½ do do at 5½ cts,.. 334 24

811 13

389 71

Stone, Lucius Dunning, 7½ feet stone,..... \$4 00  
 A. Wenden, 440½ perch do at 12s, 661 00  
 785½ feet do at 8cts, 62 86  
 627½ do do at 12cts, 75 25  
 2377½ do do at 14cts, 332 50  
 761½ do do at 15cts, 114 42  
 306 do do at 22cts, 67 32  
 Geo. B. Chase, 694½ feet do at 16cts, 112 08  
 2,407½ do do at 8cts, 192 58  
 44 do do at 10cts, 4 40  
 1 door sill ea. 60cts, \$1, \$2.50..... 4 10  
 15½ feet at 1s, 10½ feet at 6d..... 2 60

1,633 11

Iron, nails, lead, &c. I. S. Miller, 1cwt 2qr 26lb  
 iron, at 44s, ..... 9 53  
 1 box tin plate, ..... 13 00  
 100lb nails, ..... 7 50  
 199½lb lead, at 8cts, ..... 15 98  
 2 files, 3s, ..... 75  
 I. S. Miller, 224lbs iron, at 8cts, ..... 17 92  
 E. Hills, 80lbs lead, at 7½cts, ..... 6 00  
 Hitchcock & Wolcott, 10,388lbs gallery  
 irons, at \$4, ..... 415 52  
 3,133lbs window sills, at \$4, ..... 125 32  
 366lbs brass castings, at 40cts, ..... 146 49  
 R. Muir, 31 boxes glass, at \$3, ..... 93 00  
 Higgins & Bleecker, 112lbs iron, at 7cts, 7 84  
 J. B. Hyde & Co., 1 shovel, .... \$0 88  
 73lbs cast steel, at 1s 9d., .... 15 75  
 2doz files, at 8s 6d., ..... 2 12  
 1doz do 27s., ..... 3 37  
 1doz do 30s., ..... 1 88  
 25lbs wrought nails, at 1s 4d., 4 17  
 115lbs grindstone, at 3d., .... 3 45

Carried forward, ..... \$ \$ \$



Brought forward,..... \$        \$        \$  
 Iron, nails, lead, &c., J. B. Hyde & Co.,  
   192lbs lead, at 8cts.,..... 15 36

46 98

L. Willard, 3lbs cast steel, at 2s., \$0 75  
   22½lbs blister steel, at 1s 3d., 3 52  
   10lbs Russian iron, at 6cts.,... 60  
   338lbs lead. at 7cts.,..... 23 66  
   80lbs nails, at 7cts.,..... 5 60

34 13

E. Corning & Co., 2doz trow-  
   els, at 54s.,..... \$13 50  
   1doz chalk lines ea. 4s. & 6s., 1 25  
   20gro screws, at 8s 6d.,... 21 25  
   1doz files, ea. 24s 28s & 36s., 11 00  
   1doz do ea 32s 14s 28s, &  
     2doz do ea 8s 48s.,..... 23 50  
   1doz do at 72s.,..... 13 50  
   Cask,..... 50  
   15 5 0 16cwt iron, at

\$72.50, 1,106 16

10 0 00cwt do, at \$140,. 70 00  
   12 3 14cwt do, at \$135,. 86 91  
   12 2 25cwt do, at 48s.,... 76 34  
   5 3 4cwt do, at 44s.,... 31 82  
   30 0 18cwt do, at \$105 T., 158 34  
   40 0 0cwt do, at \$72.50 145 00  
   112lbs brazier's rods, 8cts., 8 96  
   531 " sheet iron, at 8½cts., 45 13  
   228 " cast steel, at 19cts., 43 32  
   135 " E. B. do, at 1s 3d., 21 09  
   51 " G. do, at 1s.,..... 6 38  
   170lbs anvil, at 1s 1d.,... 23 80  
   2doz shovels, at \$10,.... 20 00  
   152lbs rope, at 1s.,..... 19 00  
   200lbs nails, at \$7,..... 14 00  
   1,936lbs do at \$6,..... 116 16  
   Cartage, ..... 2 28  
   13 0 21cwt iron at 48s., 79 13  
   5 1 20cwt do, at 40s.... 27 14  
   4 10 3 21tons do, \$72.50,.. 329 65  
   237lbs cast steel, at 19cts, 45 03  
   50lbs borax, at 27ct.,.... 13 50  
   1000lbs lead, at 7cts.,.... 70 00  
   Box 3s 6d., cartage 2s.,... 69  
   1 10 3 14tons iron, \$72.50,. 111 93  
   1 0 0 0tons do, at \$140, 140 00  
   Cartage, ..... 25  
   12 0 0cwt iron, at \$140, 84 00

Carried forward,..... \$        \$        \$

Brought forward,.....	\$	\$	
E. Corning & Co., cartage,...		14	
3 16 0 21 tons, iron, \$72.50,	276	19	
2,000 lbs lead, at 7cts.,...	140	00	
8 kegs at 1s 6d., cartage,			
10s 3d.,.....	2	76	
8cwt. 1q. 0lbs. iron, at 31s.	31	97	
9 0 16 " 40s.	45	72	
5 0 7 " 30s.	18	09	
3 0 21 " 42s.	16	74	
2 box tin, X X at \$15, ....	30	00	
3cwt. 3q. 9lbs. iron, at 31s...	14	84	
1,124 lbs. lead, at 6½c.....	73	06	
Cartage, .....	50		
	231	82	
Freight, Whiteside, Cramer & Co. from Albany to Auburn, 88,282 lbs. goods, as above, at 4s. 9d. per 100 lbs. ....			4,571 39
Paints, &c. Hunt & Co. 6 lbs. lamp black, .....	1	00	
1 brush, .....	75		
15 galls. oil, at 8s. 6d.....	15	94	
5 lbs. red lead, at 10c. ....	50		
2 " litharge.....	25		
100 lbs. white lead,.....	11	00	
100 " whiting,.....	2	25	
	31	69	
Steel, Cook & Co. 20 galls. oil at 8s. 6d.....	21	25	
2 galls. spt. t. at 4s. 6d. ....	1	12	
1 doz. l. black, .....	1	00	
	23	37	
1 brush, ea. 6d. 2s. 2s. 1s. 4d. 1s. 4d.....	1	58	
2 lbs. red lead, 1s. 8d. 2 lbs. litharge, 2s. 8d. ....	54		
1 doz. chalk lines, 4s. 6d. 12 lbs. chalk, 2s. 11d. ....	93		
200 lbs. P. white, at 4c. cartage, 1s. ....	8	12	
	11	17	
150 lbs. S. white, at 4c .....	6	00	
33½ galls. oil, \$35.64 brl. 6s.	36	39	
15½ " spts. turpentine, at 4s. 6d. ....	8	70	
24 papers lamp black, at 1s. 3d.....	3	75	
Carried forward,.....	\$		
Senate, No. 20.]	9		

Brought forward,..... \$		
Steel, Cook & Co.		
Pruss. blue, \$3, brushes \$6.94,	9 94	
250 lbs. white lead, at 11c..	27 50	
Pencils, 56c. red lead, 45c.		
litharge, 62c. ....	1 63	
Hunt & Co. 4 lbs. shellac, at 35c..	1 40	
2 lbs. umber, at 1s,.....	25	
3 galls. spts. t. at 4s. 6d.....	1 69	
	<hr/>	
	3 34	
	<hr/>	
		163 48
Sundries, A. Withey, timber for hammer handles, .....	4 00	
D. Everts, " " .....	4 00	
P. Hunt, 13 lbs. rope, at 16c.....	2 08	
A. Merritt, 54½ " 1s. 4d.....	9 08	
D. Curtis, 66 bush. hair, at 2s. ....	16 25	
E. Allen, 4 scaffold poles, at 4s.....	2 00	
A. Withey, 10 " " .....	7 50	
50 " " .....	35 00	
25 " " .....	16 50	
	<hr/>	
		96 41
Team-work, H. G. Van Dusen, 6½ days work, at 16s.....	13 25	
S. A. Gould, 1 days work,.....	2 00	
H. Derby & Co. 8 " .....	16 00	
A. Withey, 6½ " .....	13 00	
Carting lath, .....	25	
J. Mason, team-work,.....	1 75	
	<hr/>	
		46 25
Oil, Dunham, D. & Co. 30 galls. oil, at 95c. ....	28 50	
	<hr/>	
Total,.....	\$12,376 36	

## (No. 21.)

## STATEMENT

Of the various branches of business in which the convicts are employed, the average number employed in each branch, and the amount earned in each branch of business, for the year ending September 30, 1832.

<i>Business.</i>	<i>Numb. of men.</i>	<i>Am. earned.</i>
Comb makers,.....	29	\$2,215 95
Stone cutters, .....	14	1,189 36
Coopers, .....	43	3,346 61
Tool makers,.....	37	3,316 86
	<hr/>	
Carried forward,.....	.....	\$

<i>Business.</i>	<i>Numb. of men.</i>	<i>Am. earned.</i>
Brought forward,.....	.....	\$
Shoe makers,.....	48	4,448 48
Bedtick weavers, and spoolers, } 21 invalids, }	84	5,421 00
Coverlet weavers,.....	7	782 69
Machinists,.....	27	3,461 89
Blacksmiths,.....	9	1,247 78
Cabinet makers,.....	38	3,655 30
Hame and saddletree makers,.....	27	2,124 85
Check weavers,.....	13	1,120 81
Sattinet weavers,.....	42	3,900 65
Tailors,.....	38	2,616 04
Button makers,.....	8	805 18
Carpenters, .....		248 85
Weavers,.....		12 06
Smiths,.....		317 26
Turners,.....		73 14
		<u>\$40,313 71</u>
Articles sold,.....	\$124 12	
Maintenance of U. S. convict,.....	64 69	
Transporting convict to House of Refuge,.....	110 20	
Received from visitors,.....	1,220 75	
		<u>1,519 76</u>
Total,.....		<u><u>\$41,833 47</u></u>

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ERRATUM.—Page 2, ninth line from top, for “and by,” read “one by;” page 5, second line from top, for “which is to be fire proof,” read “which is believed to be fire proof;” third line same page, for “posts,” read “fronts.”



**No. 21.**

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**IN SENATE,**

**January 17, 1833.**

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**OPINION**

**Of the committee on the judiciary, on the petition of the Black River Cotton and Woollen Manufacturing Company.**

The committee on the judiciary, to which was referred the petition of the Black River Cotton and Woollen Manufacturing Company,

**Reports:**

That it appears from the petition and documents accompanying the same, that this company, for several years, has not been in the receipt of any profits or income; and in consequence thereof, has been exempt from taxation, and has not been assessed until an assessment at the last meeting of the board of supervisors.

It appears that the company carries on its operations in the town of Watertown; and that the assessors of said town, in making out the last assessment roll, returned the valuation of said company at the nominal amount of its stock, \$35,700: That this was estimated as follows: Real estate, \$6,000; personal estate, \$29,700; total, \$35,700.

It appears that the preliminary statement and affidavit required by law was furnished and delivered to one of the assessors in June last, but the company neglected to file an affidavit with the clerk of the board of supervisors at their annual meeting. In consequence of which omission, they have been subjected to the assessment of which they complain.

From a certificate of one of the assessors, it appears that they were not particular in ascertaining the actual value of the corporation.  
Senate, No. 21.]

rate property, inasmuch as they supposed it would be struck from the assessment roll, and no tax assessed on the company; and this assessor certifies, that had he supposed a tax would have been assessed on said company, he should have returned the whole value of the property of the company, real and personal, at five thousand dollars.

From the petition, (which is also verified by the certificate of the clerk of the board of supervisors,) it appears that the board supposed the assessment of the company would be struck from the assessment roll, as it had been in preceding years, on filing the affidavit for that purpose by the proper officer of the company: That under this impression, the whole amount required to be levied from the town of Watertown, together with a surplus of \$13.55, was assessed, without reference to the valuation of the property of said company; and on the officers thereof omitting to file with the clerk of the board of supervisors the oath required by law to exempt from taxation, a surplus tax of \$213.49 was finally assessed on said company, which, the committee are informed, has or will shortly be paid.

By the ninth section of the law in regard to assessments on incorporated companies, at page 416 of the first volume of the Revised Statutes, it is enacted, that any incorporated company may be stricken from the assessment roll, and wholly exempted from taxation, on filing with the clerk of the board of supervisors a satisfactory affidavit that such company is not in the receipt of any profits or income.

The omission to file such affidavit is, in the opinion of the committee, satisfactorily accounted for; and they have unanimously come to the conclusion that the petitioners should be relieved not only from the payment of the tax on all except \$5,000, the actual value of the property, but from the payment of any tax whatever.

The committee find a precedent for the principle of the act which they propose to introduce, in a law passed March 7th, 1831, page 59 of Session Laws of that year, entitled "An act to correct an error in the assessment list of the first ward of the city of Albany."

They have therefore prepared a bill for the relief of the petitioners, which they beg leave to introduce.

LEVI BEARDSLEY,  
Chairman

**No. 22.**

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**IN SENATE,**

**January 17, 1833.**

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**REPORT**

**Of the committee on canals, on the petition of Warren W. Case.**

Mr. Armstrong, from the committee on canals, to whom was referred the petition of Warren W. Case,

**REPORTED:**

The petitioner represents that he was the owner of a scow-boat, navigating the Erie canal, called the John Dodge, of Geddes: that on the 18th of June, 1831, said boat took on board at Rochester a cargo of flour, lard and bran; and that, by order of the collector, the boat was taken into the weigh-lock at that place, where it was so broken and injured as to render it worthless, besides doing great damage to the cargo on board, for which the owners claim damages from him.

The representations of the petitioner are corroborated by the affidavit of Robert O'Niel, who testifies that he was master of the boat; that he remonstrated against going into the weigh-lock, at the same time expressing his fears that the boat would be injured thereby. The weigh-master also certifies as to the damages done to the boat and cargo, and expresses his belief that the injury accrued from the weakness of the carriage attached to the scale on which the boat rested; and that no blame should attach to the hands who had charge of the boat, they having been ordered by the collector and himself to put the boat into the lock, which they did in a prudent and careful manner.

The committee are not aware that any general rule has been adopted relative to the payment of damages accruing to the owners  
[Senate No. 22.]



of boats navigating the canals, from the insufficiency of the public works; nor are they now prepared to say how far the State should be held responsible for such damages when the owners of boats voluntarily use them, or when, from the nature of the cargo, it should become strictly necessary to enter a weigh-lock, in order to ascertain the amount of tolls chargeable upon such cargo. But from the statement of the petitioner in this case, it would appear that the tolls might have been calculated as well from the bill of lading as from actual weight; and that he was unnecessarily compelled to enter the lock when the damages accrued.

The committee have, therefore, come to the conclusion that the case of the petitioner is one entitled to the favorable consideration of the Senate; and have drawn a bill for his relief, which they now ask leave to present.

**No. 23.**

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**IN SENATE,**

**January 22, 1833.**

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STATE OF NEW-YORK. }  
*In Senate, January 22, 1833. }*

*Resolved*, That there be printed four times the usual number of copies of the Message of the President of the United States, communicated to Congress on the 16th inst., in relation to the means necessary to maintain the authority of the General Government against the nullifying ordinance and acts of the State of South Carolina.

By order,

JOHN F. BACON, *Clerk*.

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## **MESSAGE**

**Of the President of the United States to Congress.**

*Fellow-Citizens of the Senate,  
and of the House of Representatives :—*

In my annual message at the commencement of your present session, I adverted to the opposition to the revenue laws in a particular quarter of the United States, which threatened not merely to thwart their execution, but to endanger the integrity of the Union. And, although I then expressed my reliance that it might be overcome by the prudence of the United States and the patriotism of the people, I stated that should the emergency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice should be given to Congress, with the suggestion of such views and measures as might be necessary to meet it.

[Senate No. 23.]

Events which have occurred in the quarter then alluded to, or which have come to my knowledge subsequently, present this emergency.

Although unknown to me at the date of the annual message, the Convention which assembled at Columbia, in the State of South Carolina, passed on the 24th of November last, an Ordinance, declaring certain acts of Congress therein mentioned within the limits of that State to be absolutely null and void, and making it the duty of the Legislature to pass such laws as would be necessary to carry the same into effect, from and after the 1st of February next. A copy of that Ordinance has been officially transmitted to me by the Governor of South Carolina, and is now communicated to Congress.

The consequences to which this extraordinary defiance of the just authority of the Government might too surely lead were clearly foreseen, and it was impossible for me to hesitate as to my own duty in such an emergency. The Ordinance had been passed, however, without any certain knowledge of the recommendation which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress, and a hope was indulged that by frankly explaining his sentiments and the nature of those duties which the crisis would devolve upon him, the authorities of South Carolina might be induced to retrace their steps. In this hope I determined to issue my Proclamation of the 10th of December last, a copy of which I now lay before Congress.

I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the Legislature of South Carolina, which I now lay before you, and which have all and each of them finally passed, after a knowledge of the desire of the administration to modify the laws complained of, are too well calculated, both in their positive enactments and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

Up to this period, neither the recommendation of the Executive, in regard to our financial policy and impost system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will in all parts of the Union, appears to have produced any relaxation in the measures of

opposition adopted by the State of South Carolina, nor is there any reason to hope that the Ordinance and laws will be abandoned. I have no knowledge that an attempt has been made, or that it is in contemplation to reassemble either the Convention or the Legislature; and it will be perceived, that the interval before the 1st of February is too short to admit of the preliminary steps necessary for that purpose. It appears, moreover, that the State authorities are actively organizing their military resources, and providing the means, and giving the most solemn assurances of protection and support to all who shall enlist in opposition to the revenue laws. A recent Proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the head-quarters of the State have announced his determination to accept the services of volunteers, and his belief, that should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in her defence. Under these orders, the forces referred to are directed to "hold themselves in readiness to take the field at a moment's warning," and in the city of Charleston—within a collection district, and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the magazine and municipal guard. Thus South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence if need be, to enforce her laws for preventing the collection of the duties within her limits.

Proceedings thus announced and matured must be distinguished from menaces of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection and the influence of public opinion from the commission of actual outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.

Under these circumstances, there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their Ordinance and Laws after the 1st of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom may deem fit, shall be seasonably provided; and that it may be thereby understood, that while the government is disposed to remove all just cause of complaint, as far as may be practicable, consistent-

ly with a proper regard to the interests of the community at large, it is nevertheless determined that the supremacy of the laws shall be maintained.

In making this communication, it appears to me to be proper, not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the due collection of the revenue, and with my views of the subject generally, that the suggestions which the Constitution requires me to make in regard to your future legislation, may be better understood.

This subject having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should particularly instruct the officers of the United States in that part of the Union, as to the nature of the duties prescribed by the existing laws.

Instructions were accordingly issued on the 6th of November, to the collectors in that State, pointing out their respective duties, and enjoining upon each a firm and vigilant, but discreet performance of them in the emergency then apprehended. I herewith transmit copies of these instructions and of the letter addressed to the District Attorney requesting his co-operation.

These instructions were dictated in the hope that as the opposition to the laws by the anomalous proceeding of nullification was represented to be of a pacific nature, to be pursued substantially according to the forms of the constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be taken in conformity with that profession; and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead: but it certainly was not foreseen that the meditated obstruction to the laws would so soon openly assume its present character.

Subsequently to the date of those instructions, however, the ordinance of the convention was passed, which if complied with by the people of that State, must effectually render inoperative the present revenue laws within her limits. That ordinance declares and ordains "that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having operation and effect within the United States, and more especially "An act in alteration of the several acts imposing duties on imports," approved on the 19th of May, 1828, and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the 14th July, 1832, are unauthorised by the constitution of the United States, and violate the true intent and meaning thereof, and are null and void, and no law, nor binding upon the State of South Carolina, its officers and citizens; and all promises, contracts and obligations made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void." It also ordains "that it shall not be lawful for any of the constituted authorities, whether of the State of South Carolina, or of the United States, to enforce the payment of duties imposed by the said acts within the limits of the State, but that it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of the State, from and after the 1st of February next; and that it shall be the duty of all other constituted authorities, and of all persons residing or being within the limits of the State, and they are hereby required and enjoined, to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto."— It further ordains "that in no case of law or equity, decided in the courts of the State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and the person or persons attempting to

take such appeal, may be dealt with as for a contempt of court." It likewise ordains, "that all persons holding any office of honor, profit or trust, civil or military, under the State, shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute and enforce this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit or trust, civil or military, shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empannelled in any of the courts of the State, in any cause in which shall be in question this ordinance or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof." The ordinance concludes, "And we, the people of South Carolina, to the end that it may be fully understood by the government of the United States and the people of the co-states, that we are determined to maintain this ordinance and declaration at every hazard, do further declare that we will not submit to the application of force on the part of the Federal Government to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorising the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels, to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political con-

nection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do."

This solemn denunciation of the laws and authority of the United States has been followed up by a series of acts on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self defence which the paramount duty of the Federal Government requires, but upon the adoption of which that State will proceed to execute the purpose it has avowed in this ordinance of withdrawing from the Union.

On the 27th of November, the Legislature assembled at Columbia; and, on their meeting, the Governor laid before them the Ordinance of the Convention. In his message on that occasion, he acquaints them that "this Ordinance has thus become a part of the fundamental law of South Carolina;" that "the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it; and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the General Government within the authorised grants of power to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest is neither to be concealed or denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that within the limits of this State their will shall be obeyed." "The measures of legislation," he says, "which you have to employ at this crisis is the precise amount of such enactments as may be necessary to render it utterly impossible to collect within our limits the duties imposed by the protective tariffs thus nullified." He proceeds—"That you shall arm every citizen with a civil process, by which he may claim, if he pleases, a restitution of his goods, seized under the existing imposts, on his giving security to abide the issue of a suit at law, and at the same time define what shall constitute treason against the State, and by a bill of pains and penalties compel obedience and punish disobedience to



your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits your own Courts of Judicature must not only be Supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the Courts of the United States." The Governor also asks for power to grant clearances,—in violation of the laws of the Union. And, to prepare for the alternative, which must happen unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor "be authorised to accept for the defence of Charleston and its dependencies the services of two thousand volunteers, either by companies or files," and that they be formed into a legionary brigade, consisting of infantry, riflemen, cavalry, field and heavy artillery; and that they be "armed and equipped from the public arsenals completely for the field, and that appropriations be made for supplying all deficiencies in our munitions of war." In addition to these volunteer drafts, he recommends that the Governor be authorised "to accept the services of ten thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades,—the officers to be selected by the commander-in-chief, and that this whole force be called the State Guard."

A request has been regularly made of the Secretary of State of South Carolina, for authentic copies of the acts which have been passed for the purpose of enforcing the Ordinance, but up to the date of the latest advices that request had not been complied with; and on the present occasion, therefore, reference can only be made to those acts as published in the newspapers of the State. The acts to which it is deemed proper to invite the particular attention of Congress, are

1. "An act to carry into effect in part an Ordinance to nullify certain acts of Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities, passed in Convention of this State, at Columbia, on the 24th of November, 1832."

The act provides that any goods seized or detained under pretence of securing the duties, or for the non-payment of duties, or under any process, order or decree, or other pretext contrary to the

intent and meaning of the Ordinance, may be recovered by the owner or consignee, by an act of replevin; that in case of refusing to deliver them or removing them, so that replevin cannot be executed, the sheriff may seize the personal estate of the offender to double the amount of the goods; and if any attempt shall be made to retake or seize them, it is the duty of the sheriff to recapture them; and that any person who shall disobey the process, or remove the goods, and any one who shall attempt to retake or seize the goods under pretence of securing the duties, or for non-payment of duties, or under any process or decree contrary to the intent of the Ordinance, shall be fined and imprisoned, besides being liable for any other offence involved in the act.

It also provides that any person arrested or imprisoned on any judgment or decree obtained in any Federal court for duties, shall be entitled to the benefit secured by the habeus corpus act of the State, in cases of unlawful arrest, and may maintain an action for damages; and that if any estate shall be sold under such judgment or decree, the sale shall be held illegal.

It also provides that any jailor who receives a person committed on any process or other judicial proceedings to enforce the payment of duties, and any one who hires his house as a jail to receive such person, shall be fined and imprisoned: and, finally, it provides that persons paying duties may recover them back with interest.

The next is called "An act to provide for the security and protection of the people of the State of South Carolina."

This act provides that if the government of the United States, or any officer thereof, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into submission to the acts of Congress declared by the Ordinance null and void, or to resist the enforcement of the Ordinance, or of the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is authorized to resist the same, and to order into service the whole or so much of the military force of the State as he may deem necessary; and that in case of any overt act of coercion or intention to commit the same, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating that armed force is about to be employed against the State or in resistance to its Senate, No. 23.]

laws, the Governor is authorized to accept the services of such volunteers, and call into service such portions of the militia as may be required to meet the emergency.

The act also provides for accepting the service of the volunteers, and organizing the militia, embracing all free white males between the ages of 16 and 60, and for the purchase of arms, ordinance and ammunition. It also declares that the power conferred on the Governor shall be applicable to all cases of insurrection or invasion, or imminent danger thereof, and to cases where the laws of the State shall be opposed, and the execution thereof forcibly resisted by combinations too powerful to be suppressed by the power vested in the sheriffs and other civil officers: and declares it to be the duty of the Governor in every such case to call forth such portions of militia and volunteers as may be necessary promptly to suppress such combinations, and cause the laws of the State to be executed.

3d. Is "An act concerning the oath required by the Ordinance passed in Convention at Columbia, the 24th November, 1832."

This act prescribes the form of the oath—which is to obey and execute the Ordinance and all acts passed by the Legislature in pursuance thereof—and directs the time and manner of taking it by the officers of the State, civil, judiciary and military.

It is believed that other acts have been passed, embracing provisions for enforcing the Ordinance, but I have not yet been able to procure them.

I transmit, however, a copy of Governor Hamilton's Message to the Legislature of South Carolina, of Governor Hayne's inaugural address to the Legislature, as also his Proclamation, and a general order of the Governor and commander-in-chief, dated the 20th December, giving public notice that the services of volunteers will be accepted, under the act already referred to.

If these measures cannot be defeated and overcome by the powers conferred by the Constitution on the Federal Government, the Constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union. They not only abrogate the acts of Con-

gress commonly called the tariff acts of 1828 and 1832, but they prostrate and sweep away, at once, and without exception, every act and every part of every act imposing any amount whatever of duty on any foreign merchandize, and virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and also the collection law of 1799, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufacturers that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States in South Carolina is obstructed and overthrown; and the government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth not only the citizens of South Carolina and of the United States, but the subjects of foreign States may import any description or quantity of merchandize into the ports of South Carolina, without the payment of any duty whatsoever. That State is thus relieved from the payment of any part of the public burthens: and duties and imposts are not only rendered not uniform throughout the United States, but a direct and ruinous preference is given to the ports of that State over those of all the other States of the Union, in manifest violation of the positive provisions of the Constitution.

In point of duration, also, those aggressions upon the authority of Congress, which by the Ordinance are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They neither prescribe the period when they shall cease, nor indicate any conditions upon which those who have thus undertaken to arrest the operation of the laws, are to retrace their steps and rescind their measures: They offer to the United States no alternative but unconditional submission. If the scope of the Ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties and imposts whatsoever.

It is true, that in the address to the people of the United States, by the Convention of South Carolina, after announcing the fixed and final determination of the State in relation to the protecting system, they say that "it remains for us to submit a plan

of taxation in which we would be willing to acquiesce, in a liberal spirit of concession, provided we are met in due time, and with a becoming spirit by the States interested in manufactures." In the opinion of the Convention, an equitable plan would be, that "the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties should be raised exclusively from the unprotected articles imported, or that whenever a duty is imposed upon protected articles, an excise duty of the same rate shall be imposed upon all similar articles manufactured in the United States." The address proceeds to state, however, that they "are willing to make a large offering to preserve the Union, and with a distinct declaration that as a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, provided that no more revenue be raised than is necessary to meet the demands of government for constitutional purposes, and provided also that a duty substantially uniform be imposed upon all foreign imports."

It is also true, that in his message to the Legislature, when urging the necessity of providing "means of securing their safety by ample resources for repelling force by force," the Governor of South Carolina observed, that he "cannot but think, that on a calm and dispassionate review by Congress and the functionaries of the general government, of the true merits of this controversy, the arbitration by a call of a convention of all the States, which we sincerely and anxiously seek and desire, will be accorded to us."

From the diversity of the terms indicated in these two important documents, taken in connection with the progress of recent events in that quarter, there is too much reason to apprehend, without in any manner doubting the intentions of those public functionaries, that neither the terms proposed in the address of the Convention, nor those alluded to in the message of the Governor, would appease the excitement which has led to the present excesses. It is obvious, however, that should the latter be insisted on, they present an alternative which the general government, of itself, can by no possibility grant, since, by an express provision of the Constitution, Congress can call a Convention for the purpose of proposing amendments only "on the application of the Legislatures of two-thirds of the States." And it is not perceived that the terms pre-

sented in the address are more practicable than those referred to in the message.

It will not escape attention, that the condition on which it is said in the address of the Convention, that they "would be willing to acquiesce," form no part of the Ordinance. While this Ordinance bears all the solemnity of a fundamental law, is to be authoritative upon all within the limits of South Carolina, and is absolute and unconditional in its terms, the address conveys only the sentiments of the Convention, in no binding or practical form. One is the act of the State, the other only the expression of the opinions of the members of the Convention. To limit the effect of that solemn act by any terms or conditions whatever, they should have been embodied in it, and made of import no less authoritative than the act itself. By the positive enactments of the Ordinance, the execution of the laws of the Union is absolutely prohibited, and the address offers no other prospect of their being again restored, even in the modified form proposed, than what depends upon the improbable contingency, that amid changing events and increasing excitement, the sentiments of the present members of the Convention and of their successors will remain the same.

It is to be regretted, however, that these conditions, even if they had been offered in the same binding form, are so undefined, depend upon so many contingencies, are so directly opposed to the known opinions and interests of the great body of the American people, as to be almost hopeless of attainment. The majority of the States and of the people will certainly not consent that the protecting duties be wholly abrogated, never to be re-enacted at any future time, or in any possible contingency. As little practicable is it to provide that the "same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected;" which, moreover, would be severely oppressive to the poor, and in time of war would add greatly to its rigors. And, though there can be no objection to the principle, properly understood, that no more revenue shall be raised than is necessary for the constitutional purposes of the government—which principle has been already recommended by the Executive as the true basis of taxation—yet it is very certain that South Carolina alone cannot be permitted to decide what those constitutional purposes are.

The period which constitutes the due time in which the terms proposed in the address are to be accepted, would seem to present scarcely less difficulty than the terms themselves. Though the revenue laws are already declared to be void in South Carolina, as well as the bonds taken under them, and the judicial proceedings for carrying them into effect, yet, as the full action and operation of the Ordinance are to be suspended until the first of February, the interval may be assumed as the time within which it is expected that the most complicate portion of the national legislation, a system of long standing, and affecting great interests in the community, is to be rescinded and abolished. If this be required, it is clear that a compliance is impossible.

In the uncertainty, then, which exists as to the duration of the Ordinance and of the enactments for enforcing it, it becomes imperiously the duty of the Executive of the United States, acting with a proper regard to all the great interests committed to his care, to treat those acts as absolute and unlimited. They are so, as far as his agency is concerned. He cannot either embrace, or lead to the performance of, the conditions. He has already discharged the only part in his power, by the recommendations in his annual message. The rest is with Congress and the people. And until they have acted, his duty will require him to look to the existing state of things, and act under them according to his high obligations.

By these various proceedings, therefore, the State of South Carolina has forced the General Government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State, solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

In my opinion, both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by an usurpation of power, the constitutional authority of the Federal Government is openly defied and set aside, wants only the form, to be independent of the Union.

The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their

most solemn obligations, and hazard the liberties and happiness of the millions composing this union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the General Government is constituted, and to the objects which it was expressly formed to attain.

Against all acts which may be alleged to transcend the constitutional power of Government, or which may be inconvenient or oppressive in their operation, the constitution itself has prescribed the mode of redress. It is the acknowledged attribute of free institutions, that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty no less of the public authorities than of people, in every case, to yield a patriotic submission.

That a State, or any other great portion of the people, suffering under long and intolerable oppression, and having tried all constitutional remedies without the hope of redress, may have a natural right, when their happiness can be no other way secured, and when they can do so without greater injury to others, to absolve themselves from their obligations to the Government and appeal to the last resort, needs not, on the present occasion, be denied.

The existence of this right, however, must depend upon the causes which may justify its exercise. It is the *ultima ratio*, which presupposes that the proper appeals to all other means of redress have been made in good faith, and which can never be rightfully resorted to unless it be unavoidable. It is not the right of the State, but of the individual, and of all the individuals in the State. It is the right of mankind generally, to secure by all the means in their power, the blessings of liberty and happiness; but when for these purposes any body of men have voluntarily associated themselves under a particular form of government, no portion of them can dissolve the association without acknowledging the correlative right in the remainder to decide whether that dissolution can be permitted, consistently with the general happiness. In this view, it is a right dependent upon the power to enforce it. Such a right, though it may be admitted to pre-exist, and cannot be wholly surrendered, is necessarily subjected to limitations in all free govern-



ments, and in compacts of all kinds freely and voluntarily entered into, and in which the interest and welfare of the individual become identified with those of the community of which he is a member. In compacts between individuals, however deeply they may affect their relations, these principles are acknowledged to create a sacred obligation; and in compacts of civil governments, involving the liberties and happiness of millions of mankind, the obligation cannot be less.

Without adverting to the particular theories to which the Federal compact has given rise—both as to its formation and the parties to it—and without inquiring whether it be merely federal, or social, or national, it is sufficient that it must be admitted to be a compact, and to possess the obligations incident to a compact; to be a compact by which power is created on the one hand, and obedience exacted on the other; a compact freely, voluntarily and solemnly entered into by the several States, and ratified by the people thereof respectively; a compact by which the several States and the people thereof respectively have bound themselves to each other and to the Federal Government, and by which the Federal Government is bound to the several States and to every citizen of the United States. To this compact—in whatever mode it may have been done—the people of South Carolina have freely and voluntarily given their assent, and to the whole and every part of it they are, upon every principle of good faith, inviolably bound. Under this obligation, they are bound, and should be required, to contribute their portion of the public expense, and to submit to all laws made by the common consent, in pursuance of the Constitution, for the common defence and general welfare, until they can be changed in the mode which the compact has provided for the attainment of those great ends of the government and of the Union. Nothing less than causes which would justify revolutionary remedy can absolve the people from this obligation; and for nothing less can the government permit it to be done without violating its own obligation; by which, under the compact, it is bound to the other States and to every citizen of the United States.

These deductions plainly flow from the nature of the federal compact, which is one of limitations not only upon the powers originally possessed by the parties thereto, but also upon those conferred on the government and every department thereof. It will

be freely conceded, that by the principles of our system, all power is vested in the people, but to be exercised in the mode, and subject to the checks which the people themselves have prescribed. These checks are, undoubtedly, only different modifications of the same great popular principle which lies at the foundation of the whole, but are not, on that account, to be less regarded or less obligatory.

Upon the power of Congress, the veto of the Executive, and the authority of the Judiciary, which is "to extend to all cases in law and equity arising under the Constitution, and laws of the United States made in pursuance thereof," are the obvious checks; and the sound action of public opinion, with the ultimate power of amendment, are the salutary and only limitations upon the powers of the whole.

However it may be alleged that a violation of the compact by the measures of the government can affect the obligations of the parties; it cannot even be pretended that such violation can be predicated of those measures until all the constitutional remedies shall have been fully tried. If the Federal Government exercise powers not warranted by the Constitution, and immediately affecting individuals, it will scarcely be denied that the proper remedy is a recourse to the Judiciary. Such undoubtedly is the remedy for those who deem the acts of Congress, laying duties on imports and providing for their collection, to be unconstitutional. The whole operation of such laws is upon the individuals importing the merchandize: a State is absolutely prohibited from laying imposts or duties on imports or exports without the consent of Congress, and cannot become a party under those laws without importing in her own name, or wrongfully interposing her authority against them. By thus interposing, however, she cannot rightfully obstruct the operation of the laws upon individuals. For their disobedience to or violation of the laws, the ordinary remedies through the judicial tribunals would remain. And, in a case where an individual should be prosecuted for any offence against the laws, he could not set up in justification of his act, a law of a State, which being unconstitutional, would therefore be regarded as null and void. The law of a State cannot authorize the commission of a crime against the United States, or any other act which according to the supreme law of the Union would be otherwise unlawful. And it is equally clear, that, if there be any case in which a State, as such, is af-

fectured by the law beyond the scope of judicial power, the remedy consists in appeals to the people either to effect a change in the representation or to procure relief by an amendment of the Constitution. But the measures of the Government are to be recognized as valid, and consequently supreme, until these remedies shall have been effectually tried; and any attempt to subvert those measures, or to render the laws subordinate to State authority, and afterwards to resort to constitutional redress, is worse than evasive. It would not be a proper resistance to "a government of unlimited powers"—as has been sometimes pretended—but unlawful opposition to the very limitations on which the harmonious action of the Government and all its parts absolutely depend. South Carolina has appealed to none of these remedies, but, in effect, has defied them all. While threatening to separate from the Union, if any attempt be made to enforce the revenue laws otherwise than through the civil tribunals of the country, she has not only not appealed in her own name to those tribunals which the Constitution has provided for all cases in law or equity arising under the Constitution and laws of the United States, but has endeavored to frustrate their proper action on her citizens by drawing the cognizance of cases under the revenue laws to her own tribunals, specially prepared and fitted for the purpose of enforcing the acts passed by the State to obstruct those laws, and both judges and jurors of which will be bound by the import of oaths previously taken to treat the Constitution and laws of the United States in this respect as a nullity. Nor has the State made the proper appeal to public opinion and to the remedy of amendment. For, without waiting to learn whether the other States will consent to a Convention, or if they do, will construe or amend the Constitution to suit her views, she has of her own authority altered the import of that instrument and given immediate effect to the change. In fine, she has set her own will and authority above the laws, has made herself arbiter in her own case, and has passed at once over all intermediate steps to measures of avowed resistance, which, unless they be submitted to, can be enforced only by the sword.

In deciding upon a course which a high sense of duty to all the people of the United States imposes upon the authorities of the Union, in this emergency, it cannot be overlooked that there is no sufficient cause for the acts of South Carolina, or for her thus placing in jeopardy the happiness of so many millions of people.—

Misrule and oppression, to warrant the disruption of the free institutions of the union of these States, should be great and lasting,—defying all other remedy. For causes of minor character, the Government could not submit to such a catastrophe, without a violation of its most sacred obligations to the other States of the Union, who have submitted their destiny to its hands.

There is, in the present instance, no such cause either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The long sanction they have received from the proper authorities and from the people, not less than the unexampled growth and increasing prosperity of so many millions of freemen, attest that no such oppression as would justify or even palliate such a resort, can be justly imputed either to the present policy or past measures of the Federal Government. The same mode of collecting duties and for the same general objects, which began with the foundation of the Government, and which has conducted the country through its subsequent steps to its present enviable condition of happiness and renown, has not been changed. Taxation and representation—the great principle of the American Revolution—have continually gone hand in hand; and at all times and in every instance, no tax of any kind has been imposed without the participation—and in some instances which have been complained of, with the express assent of a part of the representatives of South Carolina in the councils of the government. Up to the present period, no revenue has been raised beyond the necessary wants of the country, and the authorised expenditures of the government. And as soon as the burthen of the public debt is removed, those charged with the administration have promptly recommended a corresponding reduction of revenue.

That this system, thus pursued, has resulted in no such oppression upon South Carolina, needs no other proof than the solemn and official declaration of the late Chief Magistrate of that state, in his address to the Legislature. In that he says, that “the occurrences of the past year, in connection with our domestic concerns, are to be reviewed with a sentiment of fervent gratitude to the Great Disposer of human events; that tributes of grateful acknowledgments are due for the various and multiplied blessings he has been pleased to bestow on our people; that abundant harvests in every quarter of the State have crowned the exertions of agricultural labor; that health, almost beyond former precedent, has

blessed our homes; and that there is not less reason for thankfulness in surveying our social condition." It would, indeed, be difficult to imagine oppression, where, in the social condition of a people, there was equal cause of thankfulness as for abundant harvests and various and multiplied blessings, with which a kind Providence had favored them.

Independently of these considerations, it will not escape observation, that South Carolina still claims to be a component part of the Union, and to participate in the national councils, and to share in the public benefits without contributing to the public burthens; thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

In this posture of affairs, the duty of the Government seems to be plain—it inculcates a recognition of that State as a member of the Union, and subject to its authority, a vindication of the just power of the Constitution, the preservation of the integrity of the Union, and the execution of the laws by all constitutional means.

The Constitution, which his oath of office obliges him to support, declares that the Executive "shall take care that the laws be faithfully executed," and in providing that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws as may from time to time be found requisite.

The same instrument confers on Congress the power not merely to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare; but "to make all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof," and also to provide for calling forth the militia for executing the laws of the Union. In all cases similar to the present, the duties of the Government become the measure of its powers; and whenever it fails to exert a power necessary and proper to the discharge of the duty prescribed by the Constitution, it violates the public trust not less than it would in transcending its proper limits. To refrain, therefore, from the

high and solemn duties thus enjoined—however painful the performance may be—and thereby tacitly permit the rightful authority of the Government to be contemned and its laws obstructed by a single State, would neither comport with its own safety nor the rights of a great body of the American people.

It being thus shown to be the duty of the Executive to execute the laws, by all constitutional means, it remains to consider the extent of those already at his disposal, and what it may be proper further to provide.

In the instructions of the Secretary of the Treasury to the Collectors in South Carolina, the provisions and regulations made by the act of 1799, and also the fines, penalties and forfeitures for their enforcement, are particularly detailed and explained. It may be well apprehended, however, that these provisions may prove inadequate to meet such an open, powerful, organized opposition, as is to be commenced after the first of February next.

Subsequently to the date of these instructions and to the passage of the Ordinance, information has been received from sources entitled to be relied on, that owing to the popular excitement in the State, and the effect of the Ordinance, declaring the execution of the revenue laws unlawful, a sufficient number of persons in whom confidence might be placed, could not be induced to accept the office of inspectors, to oppose with any probability of success, the force which will no doubt be used when an attempt is made to remove vessels and cargoes from the custody of the officers of the Customs, and indeed that it would be impracticable for the Collector with the aid of any number of Inspectors whom he may be authorized to employ, to preserve the custody against such an attempt.

The removal of the Custom-House from Charleston to Castle Pinckney, was deemed a measure of necessary precaution; and though the authority to give that direction is not questioned, it is, nevertheless, apparent, that a similar precaution cannot be observed, in regard to the ports of Georgetown and Beaufort, each of which, under the present laws, remains a port of entry, and exposed to the obstructions meditated in that quarter.

In considering the best means of avoiding or of preventing the apprehended obstruction to the collection of the revenue and the

consequences which may ensue, it would appear to be proper and necessary to enable the officers of the Customs to preserve the custody of vessels and their cargoes, which by the existing laws they are required to take, until the duties to which they are liable shall be paid or secured. The mode by which it is contemplated to deprive them of that custody is the process of replevin and that of *capias in withernam*, in the nature of a distress from the State tribunals organized by the Ordinance.

Against the proceeding in the nature of a distress it is not perceived that the Collector can interpose any resistance whatever; and against the process of replevin authorised by the law of the State, he, having no common law power, can only oppose such inspectors as he is by statute authorised, and may find it practicable, to employ; and these from the information already adverted to are shown to be wholly inadequate. The respect which that process deserves must therefore be considered.

If the authorities of South Carolina had not obstructed the legitimate action of the courts of the United States, or if they had permitted the State tribunals to administer the law according to their oath under the Constitution, and the regulations of the laws of the Union, the General Government might have been content to look to them for maintaining the custody, and to encounter the other inconveniences arising out of the recent proceedings. Even in that case, however, the process of replevin from the courts of the State would be irregular and unauthorised. It has been decided by the Supreme Court of the United States, that the courts of the United States have exclusive jurisdiction of all seizures made on land or water for a breach of the laws of the United States: and any intervention of a State authority, which, by taking the thing seized out of the hands of the United States officer, might obstruct the exercise of this jurisdiction is unlawful; that in such case the court of the United States having cognizance of the seizure may enforce a re-delivery of the thing by attachment or other summary process; that the question under such a seizure whether a forfeiture has been actually incurred belongs exclusively to the courts of the United States, and it depends on the final decree whether the seizure is to be deemed rightful or tortious; and that not until the seizure be finally judged wrongful and without probable cause by the courts of the United States, can the party proceed at common law for damages in the State Courts.

But by making it "unlawful for any of the constituted authorities, whether of the United States or of the State, to enforce the laws for the payment of duties, and declaring that all judicial proceedings which shall be hereafter had in affirmance of contracts made with purpose to secure the duties imposed by said acts, are and shall be held utterly null and void," she has in effect abrogated the judicial tribunals within her limits in this respect—has virtually denied the United States access to the courts established by their own laws, and declared it unlawful for the Judges to discharge those duties they are sworn to perform. In lieu of these, she has substituted those state tribunals already adverted to—the judges whereof are not merely forbidden to allow an appeal or permit a copy of their record, but are previously sworn to disregard the laws of the Union, and enforce those only of South Carolina; and, thus deprived of the function essential to the judicial character, of inquiring into the validity of the law and the right of the matter, become merely ministerial instruments in aid of the concerted obstruction of the laws of the Union.

Neither the process nor authority of these tribunals thus constituted, can be respected, consistently with the supremacy of the laws or the rights and security of the citizen. If they be submitted to, the protection due from the Government to its officers and citizens is withheld, and there is at once an end not only to the laws but to the Union itself.

Against such a force as the sheriff may, and which, by the replevin act of South Carolina, it is his duty to exercise, it cannot be expected that a collector can retain his custody with the aid of the inspectors. In such case, it is true, it would be competent to institute suits in the United States Courts against those engaged in the unlawful proceeding; or the property might be seized for a violation of the revenue laws, and being libelled in the proper courts, an order might be made for its re-delivery, which would be committed to the Marshal for execution. But in that case the 4th section of the act, in broad and unqualified terms, makes it the duty of the sheriff "to prevent such re-capture or seizure, or to re-deliver the goods, as the case may be," even "under any process, order or decrees, or other pretext contrary to the true intent and meaning of the Ordinance aforesaid."



It is thus made the duty of the sheriff to oppose the process of the Courts of the United States, and for that purpose, if need be, to employ the whole power of the country; and the act expressly reserves to him all power, which independently of its provisions he could have used. In this reservation, it obviously contemplates a resort to other means than those particularly mentioned.

It is not to be disguised that the power which it is thus enjoined upon the sheriff to employ is nothing less than the *posse comitatus*, in all the rigor of the ancient common law. This power, though it may be used against unlawful resistance to judicial process, is in its character forcible, and analagous to that conferred upon the marshals, by the act of 1795. It is in fact the embodying of the whole mass of the population under the command of a single individual, to accomplish by their forcible aid what could not be effected peaceably and by the ordinary means. It may properly be said to be a relict of those ages in which the laws could be defended rather by physical than moral force, and, in its origin, was conferred upon the sheriffs of England to enable them to defend their country against any of the King's enemies when they came into the land, as well as for the purpose of executing process. In early and less civilized times, it was intended to include "the aid and attendance of all knights and others who were bound to have harness." It includes the right of going with arms and military equipments, and embraces larger classes and greater masses of population than can be compelled by the laws of most of the States to perform militia duty. If the principles of the common law are recognized in South Carolina, (and from this act it would seem they are) the powers of summoning the *posse comitatus* will compel, under fine and imprisonment, every man, over the age of fifteen and able to travel, to turn out at the call of the sheriff,—and with such weapons as shall be necessary; and it may justify beating and even killing such as may resist. The use of the *posse comitatus* is therefore a direct application of force, and cannot be otherwise regarded than as the employment of the whole militia force of the country, and in an equally efficient form under a different name. No proceeding which resorts to this power, to the extent contemplated by the act, can be properly denominated peaceable.

The act of South Carolina, however, does not rely altogether upon this forcible remedy. For even attempting to resist or dis-

obey,—though by the aid only of the ordinary officers of the customs,—the process of replevin, the collector and all concerned are subjected to a further proceeding in the nature of a distress of their personal effects, and are moreover made guilty of a misdemeanor and liable to be punished by fine of not less than one thousand nor more than five thousand dollars, and to imprisonment not exceeding two years nor less than six months; and for even attempting to execute the orders of the court for re-taking the property, the marshal and all assisting would be guilty of a misdemeanor, and be liable to a fine of not less than three thousand dollars, nor more than ten thousand, and to imprisonment not exceeding two years nor less than one; and in case the goods should be retaken under such process, it is made the absolute duty of the sheriff to retake them.

It is not to be supposed, that in the face of these penalties, aided by the powerful force of the country, which would doubtless be brought to sustain the state officers, either that the collector could retain the custody in the first instance, or that the marshal could summon sufficient aid to re-take the property pursuant to the order or other process of the court.

It is moreover obvious that in this conflict between the powers of the officers of the United States and of the State (unless the latter be passively submitted to) the destruction to which the property of the officers of the customs would be exposed, the commission of actual violence, and the loss of lives, would be scarcely avoidable.

Under these circumstances, and the provisions of the acts of South Carolina, the execution of the laws is rendered impracticable, even through the ordinary judicial tribunals of the United States. There would certainly be fewer difficulties and less opportunity of actual collision between the officers of the United States and of the State, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom-house beyond the immediate power of the county.

For this purpose it might be proper to provide, that whenever, by any unlawful combination or obstruction in any State, or in any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorised to al-

ter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom-house at some secure place within the same port or harbor of such State; and in such cases it should be the duty of the Collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law be properly secured or paid in cash—deducting interest—that in such cases it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that in case of an attempt otherwise to take the property by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces and militia, under provisions similar to those authorised by the 11th section of the act of the 9th of January, 1809.

The provision, however, will not shield the officers and citizens of the United States, acting under the laws from suits and prosecutions in the tribunals of the State which might thereafter be brought against them; nor would it protect their property from the proceeding by distress: and it may well be apprehended that it would be inefficient to insure a proper respect to the process of the constitutional tribunals in prosecutions for offences against the United States; and to protect the authorities of the United States, whether judicial or ministerial, in the performance of their duty. It would, moreover, be inadequate to extend the protection due from the government to that portion of the people of South Carolina against outrage and oppression of any kind, who may manifest their attachment and yield obedience to the laws of the Union.

It may therefore be desirable to revive, with some modifications better adapted to the occasion, the 6th section of the Act of 3d of March, 1815, which expired on the 4th of March, 1817, by the limitation of that of 27th of April, 1816, and to provide that in any case where suit shall be brought against any individual in the courts of the State for any act under the laws of the United States, he should be authorised to remove the said cause by petition into the Circuit Court of the United States, without any copy of the record, and that that Court should proceed to hear and determine the same as if it had been originally instituted therein; and that in all cases of injuries to the persons or property of individuals act-

ing under the laws of the United States for disobedience to the Ordinance and laws of South Carolina in performance thereof, redress may be sought in the Courts of the United States.

It may be expedient, also, by modifying the resolution of the 3d March, 1791, to authorise the Marshals to make the necessary provisions for the safe keeping of prisoners committed under the authority of the United States.

Provisions less than these, consisting as they do for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected and enforced. It is believed these would prove adequate, unless the military forces of the State of South Carolina authorised by the late act of the Legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the Ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms, to adapt the act of 1795 to the present emergency, as by that act the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the President to give it operation during the session of Congress, and without the ceremony of a Proclamation, whenever it shall be officially made known to him by the authority of any State, or by the Courts of the United States, that within the limits of such State the laws of the United States will be openly opposed and their execution obstructed by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the Government to perform its duty, and to co-operate in all measures necessary in the present emergency.

The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman; not more in removing such portion of the public burthen as may be unnecessary, than in preserving the good order of society, and in the maintenance of well regulated liberty.

While a forbearing spirit may, and I trust, will be exercised towards the errors of our brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be exercised with impunity.

The rich inheritance bequeathed by our fathers has devolved upon us the sacred obligation of preserving it by the same virtues which conducted them through the eventful scenes of the Revolution, and ultimately crowned their struggle with the noblest model of civil institutions. They bequeathed to us a Government of laws, and a Federal Union, founded upon the great principle of popular representation. After a successful experiment of forty-four years, at a moment when the Government and the Union are the objects of the hopes of the friends of civil liberty throughout the world, and in the midst of public and individual prosperity unexampled in history, we are called upon to decide whether these laws possess any force and that Union the means of self-preservation. The decision of this question by an enlightened and patriotic people cannot be doubted. For myself, fellow-citizens, devoutly relying upon that kind Providence, which has hitherto watched over our destinies, and actuated by a profound reverence for those institutions I have so much cause to love, and for the American people, whose partiality honored me with their highest trust, I have determined to spare no effort to discharge the duty which in this conjuncture is devolved upon me. That a similar spirit will actuate the representatives of the American people, is not to be questioned; and I fervently pray that the Great Ruler of Nations may so guide your deliberations and our joint measures, as that they may prove salutary examples, not only to the present but to future times, and solemnly proclaim that the Constitution and the Laws are supreme and the *Union indissoluble*.

ANDREW JACKSON.

*Washington, January 16th, 1833.*

**No. 24.**

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**IN SENATE,**

**January 22, 1833.**

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**PETITION**

**Of E. C. Genet and others, inhabitants of the counties of Rensselaer and Albany, for the construction of a Ship Canal from the city of Albany to the deep waters of the Hudson, below New-Baltimore.**

*To the Honorable the Legislature of the State of New-York, in Senate and Assembly convened :*

The petition of several inhabitants of the counties of Rensselaer, Albany, and others,

**RESPECTFULLY SHEWETH:**

That your petitioners have associated for the purpose of constructing a ship canal on the east shore of the Hudson river, around the seat of the alluvions, and other formations obstructing the bed of that river, from the city of Albany to the deep waters below New-Baltimore, a distance of about twelve miles and a half:

Your petitioners in making this application, beg leave to represent, that they have been induced, and strenuously encouraged, to form the said association, and to offer to the State, and to the people of the Union, their voluntary contributions and labour, to accomplish that great national object, under the impression that such a demonstration of their zeal coincides with the wishes of the public, and with several laws, reports, resolutions and Executive messages, on record in the Journals and Documents of the preceding Legislatures, as it is stated in the annexed Memorial, shewing that the plan of a ship canal hath been presented by a board of commissioners appointed by a law of the State, passed in the year 1819, to report a plan for the most permanent and efficacious improve-

[Senate, No. 24.]

ment of the navigation of the Hudson river; that the said plan hath been laid out and located after the most attentive survey of the said river and the adjacent shores; that it hath been approved, and acted on, as a part of the canaling system of the State, by several Legislatures; that it would have been executed at public expense, if the finances of the State had permitted it, and that it hath been held up in 1822 by the Legislature to Congress, as an object of national utility, eminently entitled to the assistance of the United States.

Under all those circumstances your petitioners confidently believe, that if a company of able, spirited and industrious citizens offer to accomplish, with every possible speed a public improvement of such an interesting nature, without any charge to the oppressed treasury of the State, they may justly claim, as it hath been expressed by Mr. Dudley, in behalf of the committee of the Senate on canals and public improvements, "*the most liberal and extensive privileges.*"

Your petitioners, however, will not avail themselves of those bountiful expressions, to solicit more than a strict equity and a prudential policy will award: They only pray for a charter of incorporation under the title and name of the *Hudson Ship Canal Company*, with a capital of eight hundred thousand dollars, to be increased, if requisite, to one million of dollars, and the privilege of exacting tolls proportionate to the tonnage and nature of the vessels navigating the canal, and commensurate with the assistance which said vessels may require either to be towed up and down by horses or locomotive engines, or in freezing weather to be propelled through the ice, by the means of steam ice-stampers.

Your petitioners, notwithstanding their readiness to undertake the construction of the contemplated ship canal, without increasing the pecuniary burthen of the State, entertain, however, the hope, that your honorable body will condescend to renew in their favor the resolutions passed jointly by both houses of the Legislature on the 12th of April, 1822, "instructing the Senators and Representatives of the State in Congress, to call the attention of the general government to the great importance and public utility of improving the navigation of the Hudson, so as to open a free communication and direct intercourse for vessels of all description, with the internal navigation of the State."

Your petitioners are aware that constitutional questions, relative to the application of the national funds to objects of local improvement, have suspended the fulfilment of the request those resolutions contained: and they are also apprised, that the same questions have lately rendered abortive the partial success of another application made to Congress by the local municipal authorities of Albany and Troy, to obtain the aid of the Union to clear the bed of the Hudson of its obstructions, on the old plan of local excavations and contractions, which could never have procured a sufficient depth of water for Atlantic vessels of any great commercial importance, or any permanent one for those of an inferior burthen.

But in reference to the plan of a ship canal, it is obvious that the most rigid adherence to the letter and spirit of the Constitution, as far as it hath been elucidated by the President, could not refuse the character of nationality to that splendid improvement, inasmuch as in the first place, it would favor the navigation of all the maritime States, and the commerce of the greatest number of the internal States, composing altogether more than three-fourths of the confederacy; and in the second place, that it would be located within the sphere, and through the alluvial lands of a navigable river, in which the tides ebb and flow, and which is assimilated in law to an arm of the sea, subject to the jurisdiction delegated to the United States, and of course entitled to their protecting care. If, accordingly, on the strength of this constitutional claim, an appropriation was to be made by Congress, with the sanction of the President, to promote the extension of the Atlantic navigation to the termination of the great water communications opened by this State, between the Atlantic States and the States of the interior, your petitioners presume that the Hudson Ship Canal Company would be entitled to receive the benefit of such a grant, in such manner as the national Legislature, or the Legislature of this State, would direct.

Your petitioners abstain from setting up any further claim to the patronage and assistance of your honorable body; but they will submit to your own paternal consideration, that when an energetic and patriotic effort is wanted, on the part of individual citizens, to accomplish, at their own risk, an expensive work for public accommodation, the means which do not intrude upon the State finances,



ought to be dispensed with a liberal hand, to ensure their success, facilitate their pecuniary operations, and accelerate the glorious result of their labors.

And as in duty bound, your petitioners will ever pray.

## RENSSELAER COUNTY.

### TOWN OF GREENBUSH.

Edmond C. Genet,	Aaron Drom,
H. I. Genet,	Nathaniel Higley,
C. A. Genet,	Christopher Yates,
Richard P. Herrick,	Cathaline Crannell,
James Woods,	William Lansing,
Evert Van Alen,	Amos Starr,
Abraham P. Staats,	Jonas Smith,
P. L. Hogeboom,	Joseph Goofliner,
Matthew Orssin,	Patt Miley,
James Stevens,	John Morris,
I. Fly,	Erastus Starlin,
John Pike,	O. F. Spencer,
Alexander Cumming,	Abram Hoag,
James Lansing,	Hiram Drum,
B. E. Heydon,	Alexander O. Spencer,
Daniel Attwood,	George R. Miller,
William Akin,	Samuel I. Bushnell,
Abraham I. Witbeck,	Isaiah Breaker,
Minard Van Husen,	James Gordon,
James Hallenbeck,	Charles Crouch,
Albert Gallatin Alden,	Alvin Wilber,
Henry Hallenbeck,	A. & J. Ladue,
William H. Thomas,	John Sprung,
Isaac Chace,	William H. Gains,
Isaac Johnson,	William H. Stevens,
E. C. Warner,	Charles A. Crocker,
William P. M. Warner,	Alexander Morris,
John Marks,	H. Lawrence,
John Hallenbeck,	Sylvanus Parsons,
William Ingraham,	H. Goodrich,
Ira Hoag,	Andrew Van Den Burgh,
Abraham V. H. D. Smyth,	Robert Brown,
John Goewey junior,	Charles Teeling,
John Bellinger junior,	Joseph Boughton,
Volkert V. D. Witbeck,	George Dobson,
John Manzen,	John Burton,
Benjamin Garrison,	Daniel Herrington,
Austin Matson,	John S. Van Alstyne.

## TOWN OF SCHODACK.

Samuel R. Campbell,  
O. Goodrich junior,  
David Rector,  
Henry Proseus,  
Peter Proseus,  
Joseph Proseus,  
Jeremiah Gage,  
Lawrence C. Hogeboom,  
James Hogeboom,  
Stephen Green,  
Francis Clan,  
Henry Staats,  
Benjamin Witbeck,  
Zachariah Roraback,  
Martin Van Galsbury,  
Henry Gage,  
Martin Beeckman,  
James B. Van Derpoel,  
James Schermerhorn,  
John D. Schermerhorn,  
John Foland,  
Jacob S. Van Derpoel,  
Abraham I. Mull junior,  
John Strang,  
Ralph Buss,  
J. A. Ten Eyck,  
John Squier,  
William Chamberlain junior,  
Barent Vanderpoel junior,  
William C. Bosworth,  
Moses Van Buren,  
John A. Huyck,  
Robert J. Johnson,  
Ryer B. Springsteen,  
Cornelius A. Huyck,  
Isaac B. Springsteen,  
Benjamin Springsteen,  
Richard Hoose,  
John S. Springsteen,  
Barent R. Hoos,  
J. J. Van Alstyn,  
Barent C. Schermerhorn,  
Isaac Jesup,  
Thomas Bell,  
Isaac Moll,  
Jacob M. Moll,  
Dudley D. Hempstead,  
John N. Kettle,  
Abiather Blanchard,

Abram Seward,  
A. V. Shermerhorn,  
Richard K. Van Ness,  
Q. Schermerhorn,  
Philip P. Shoefelt,  
William P. Van Alen,  
Anthony Ten Eyck,  
A. R. Schermerhorn,  
William Canfield,  
Robert Johnson,  
Simeon Dutcher,  
H. E. Van Benthusen,  
C. Willsey,  
Warren Fuller,  
Peter N. Smith,  
Walter Schermerhorn,  
Abram Burns,  
Cornelius T. Schermerhorn,  
Gilbert B. Requa,  
John Link,  
Manassah Knowlton,  
John Selliller,  
John Morrison,  
Philip P. Huyck,  
A. I. Johnson,  
John Burnes,  
Peter Baurhyte,  
John I. Schermerhorn,  
Jeremiah Gillet,  
Minard W. Mull,  
George W. Bulkley,  
James L. Moll,  
Elijah Castle,  
John Henderer,  
Stephen I. Miller,  
Frederick Shoefelt,  
Elijah Budd,  
Enoch Steves,  
Richard Hoos,  
Joseph Brockway,  
John P. Schermerhorn,  
J. V. Schermerhorn,  
Andrew L. Mull,  
Abraham Van Ness,  
John P. Hyser,  
Henry Sleighter,  
William Morrison,  
James Richardson,  
Henry Witbeck,

Robert Lewis,  
 Simeon Lodewick,  
 David D. Simon,  
 William Claflin,  
 H. Van Denbergh,  
 D. C. Capp,  
 Jeremiah Shibley,  
 George Rogers,  
 Jonathan Witbeck,  
 Obadiah S. Green,  
 Garret H. Van Derpool,  
 John Potts,  
 John Herrick,  
 Jeremiah P. Lant,  
 John Clapp,  
 Alanson Myers,  
 John I. Palmer,  
 Abraham Ladue,  
 John Halsapple,  
 David Booth,  
 Leonard Myers,  
 Christian Craver,  
 J. P. Staats,  
 Daniel W. Sprung,  
 Nicholas Husted,  
 William W. Lappens,  
 Nathan Claflen,  
 John Baurhyte,  
 David Merchant,  
 John Phillips,  
 Thomas Tobias,

Gilbert Green,  
 John B. Whitbeck,  
 Lawrence Rysedorph,  
 William H. Budd,  
 Seely Budd junior,  
 R. G. Huddleston,  
 Cornelius Brooks,  
 John I. Northrup,  
 Abraham Packman,  
 Chauncey P. Brockway,  
 Jacob W. Lewis,  
 Jacob Schermerhorn,  
 Jacob Packman,  
 Matthias Rott,  
 David Sprung,  
 Peter Jones,  
 Henry M. Smith,  
 Asa Newell,  
 William T. Clifford,  
 Ralph P. Lewis,  
 Hiram Brooks,  
 Rensselaer Reno,  
 Orry Peasley,  
 G. W. Bulkley,  
 John G. Roraback,  
 Shubel Kelly,  
 Bradford Babcock,  
 Zachariah Smith,  
 E. C. Conklin,  
 John H. Vandenberg,  
 Joseph Howard.

[N. B. Several other concurring petitions are in circulation in other towns and counties, and will be presented to the Legislature as soon as they are returned.]

## MEMORIAL.

### **On the construction of a Ship Canal around the alluvions and other formations obstructing, below the city of Albany the bed of the Hudson river.**

In the year 1804, Edmond Charles Genet presented to the late Governor George Clinton the plan of a lateral canal, to avoid the obstructions of the Hudson, which in his opinion it was impossible to remove by works of art. What he had viewed of the alluvial accretions of that river, and the observations which he had made in other parts of the world on rivers subject to the same accidents, having satisfied him, that neither scouring, dragging, excavating, nor damming, could afford any permanent relief, when natural localities did not concur to render those remedies operative. That venerable patriot approved that plan, and in his speech to the Legislature he recommended the improvement of the navigation below Albany as an object of considerable importance; but knowing that the mariners of Albany had another plan, which they warmly advocated, he did not think proper, with his usual prudence and reserve, to enter into the controversy, and advised Mr. Genet to do the same. The Legislature being accordingly left, on that subject, to act on unilateral information, appointed, with liberal appropriations, very good and honest captains of sloops State Commissioners to improve the navigation below Albany. Those Commissioners proceeded with the greatest zeal to the execution of their duties, but without preliminary surveys, without ascertaining the fall or geodesick declivity of the seat of the alluvions, without investigating the geological and hydrostatick causes of those deposits, and without calculating the nullifying effect of strong ascending tides against descending currents, they followed, on the strength alone of their own presumptions, the method which, under other circumstances, might have been expedient, of damming and contracting the channel, to procure at particular spots the removal of the obstructions. Under their direction, very extensive and costly works were constructed, the result of which hath been, to transfer alluvions from one place to another, to the injury of the navigation below; to corrode, disintegrate and carry away very valuable pieces

of land opposite to the dams; to create new deposits and islands, originating from those corroded lands; to stop the ice at the breaking up of the river, and retard by it the opening of the navigation; to render more frequent and dangerous the overflows of the river above the dams, to the great disadvantage of the adjoining lands and the lower parts of Albany and Greenbush; and finally, to make the river a great deal worse than she was, when suffered to obey the immutable laws of the Creator, and seek her way through channels of her own choice.

Fourteen years had been spent in those unsuccessful trials, when Mr. De Witt Clinton, devoted to the cause of internal improvements, was elected Governor of the State. Mr. Genet seized that opportunity to submit to that enlightened statesman a memorial on the physical causes of the incessant formation of the alluvions in the Hudson below Albany; on the impossibility of removing effectually those fatal obstructions, and on the only remedy which the science of hydraulics offered to obviate such a growing and alarming evil for the future destiny of Albany and Troy, &c. which was the construction of a lateral canal, calculated as well for ships as for sloops.(1.)

Mr. Clinton acknowledged by writing the reception of that memorial in the most flattering terms, recommended its publication and distribution among the members of the Legislature, and in the first gubernatorial speech which he delivered at the opening of the session of 1818, he urged pointedly, "a concentrated effort, embracing the whole object of the improvement of navigation in the Hudson river."

The two branches of the Legislature coincided on that important subject with the Chief Magistrate, and the House of Assembly, guided in their answer by the friend and biographer of Fulton, Mr. C. D. Colden, admitted, "*That the bad success of the expensive efforts hitherto made to remove the obstructions to the navigation of the Hudson, was owing to the mistaken principles on which the improvements had been conducted, and to a want of due consideration to the natural causes by which they were produced.*"

That correct view of the subject did not, however, advance in that session the contemplated improvement for an extensive navigation, and overcome a local influence averse to the plan of ex-

tending beyond a subordinate intermediary trade the navigation of the Hudson; and had it not been for Mr. Colden's resistance, the bigotted or interested partizans of the discredited system that had hitherto been pursued and continues to this day to be advocated, would have once more prevailed to obtain large appropriations of public money, which, as usual, would have turned more to the profit of the acting improvers than to the success of the pretended improvement.

But in the session of 1819, on the able and patriotic report of Mr. John V. N. Yates, chairman of a committee appointed on his motion by the Assembly, for the express purpose of investigating the best method of improving the navigation of the Hudson, a special board of commissioners was appointed by a law "to ascertain, by proper experiments and surveys, the true causes of the obstructions in the Hudson, and report a plan for the most efficient and permanent improvement of the navigation of said river."

In the session of 1820, the report of that board, presided by Gov. De Witt Clinton, and composed of Messrs. Simeon De Witt, Martin Van Buren, John V. N. Yates, George Tibbits, Townsend McCoun and Edmond C. Genet, was presented to the Legislature. By that report two plans, with estimates of their respective expenses were given, one for various hydraulic works within the bed of the river, presented by Mr. Butler, an engineer who had been employed, though not with a permanent success, in the construction of similar works on the Connecticut river, and the other presented by Mr. Genet, one of the commissioners aforesaid, recommending lateral canalling around the obstructions on the east shore of the river.

The Commissioners entered with the greatest care and impartiality into all the details and merits of these two plans, and being directed by the law under which they had acted to give a decided opinion, "they unanimously recommended a lateral canal, for vessels of all description, on the east shore, as the most permanent and efficient improvement, if it should be judged that the benefit to be derived from it was of sufficient magnitude to make its adoption advisable." The report further states, "that no obstacle could oppose its execution as far as the deep waters, distant twelve miles and a half from Albany, and that the track indicated facilities which were not anticipated before it was explored."

That report, communicated to the Legislature in a special message from the Governor, was immediately referred to a select committee; and Mr. Dudley, from Albany, in behalf of the committee of the Senate, reported, "That the said committee had taken into consideration the report of the commissioners aforesaid, and the accompanying documents, which together constituted an invaluable collection of facts and observations relative to the Hudson river. That the maps, surveys and estimates made by Mr. John Randall, under the direction of Mr. E. C. Genet, one of the commissioners, evince a great industry, zealous investigation, and much scientific knowledge on the part of those gentlemen; and that there could be no doubt of the practicability of a lateral canal, as projected by Mr. Genet, as well as of its utility when constructed. But that notwithstanding the benefits that might be expected to be derived from the same, it would not, in the opinion of the committee, be advisable for this State, at the present time, to commence a work of so much magnitude and expense. *The committee, however, had no hesitation in recommending that, on the application of any person or persons who might be willing to undertake the construction of a canal on the proposed plan by Mr. Genet, the Legislature should grant an act of incorporation, securing to them the most liberal and extensive privileges; and that if, at any time, the finances of the State should permit, the Legislature should give them aid to prosecute the work.*" The committee at the same time recommended provisionally to make further essays by way of experiment in the bed of the river, by the means of additional dams and other constructions. But the Legislature, unwilling to spend any more public money in useless attempts to counteract the invincible laws of nature, declined, and hath declined ever since, to make any new appropriation for the damming system, transversal or longitudinal.

In the session of 1822, the Legislature being satisfied that the period was fast approaching when an immense produce, conveyed by the Erie and Champlain canals to the shores of the Hudson, would require vessels of all descriptions at the head of the tide waters of the Hudson, to be exported beyond the seas, or transported on the shores of the United States, with the cheapest freights, and with a view to procure better returns to the farmers, and a sufficient profit to the shippers; and the Legislature being also apprised that the unfavorable situation of the Hudson below Albany, would prevent the desirable junction of the Atlantic naviga-

tion with the canal navigation, and that the revenue of the United States would be materially improved, and smuggling on the Canada line defeated, by the creation of a central maritime emporium at the termination of the canals, did explicitly, under those urgent considerations presented by Mr. Green, chairman of the committee of canals in the Assembly, pass unanimously joint resolutions, "instructing the senators from this State in Congress, and requesting the representatives, to call the attention of the General Government to the great importance and public utility of improving the navigation of the Hudson, so as to open a free communication and direct intercourse, for vessels of all descriptions, with the internal navigation of the State."

These resolutions were transmitted to our senators and representatives in Congress, on the 12th of April, 1822, by Governor Clinton, with the additional expression of the sentiments which his Excellency had already evinced as one of the commissioners aforesaid, on the importance of the measure recommended to the attention of Congress by the Legislature; and it is highly probable, that if constitutional questions had not been raised by President Monroe, and in Congress, on the propriety of applying, under the present clauses of the Constitution, the income of the Union to objects of local improvement, the nature of this application, duly considered, would have readily been granted.

In the session of 1824, his Excellency Governor Yates, whose feelings for the prosperity of Albany and its vicinity, as well as for the welfare of the State and of the Union, are hereditary and well known, convinced of the immense advantages that would accrue from the construction of a ship canal, urged with a laudable decision in his message the immediate passage of a law to render, if possible, the execution of that great national measure coeval with the completion of the internal canals.

The committee to which was referred that interesting part of Governor Yates' message, reported thereon, "that they were satisfied that a good navigable communication, calculated for vessels of all descriptions, between the Atlantic ocean and the cities of Albany and Troy, would be of great utility; that perhaps no new object of public improvement could be selected, more worthy of the attention of the State, than the one recommended in the Governor's message, and *that the time was not far distant*, when it would be



the duty and interest of the State to commence and carry into operation that great object of public convenience; but that the period had not yet come to engage in any new enterprise of such magnitude—because the canals already commenced and hitherto successfully prosecuted, had not as yet been tested by experience; because the interest of the State would be best subserved by completing the Erie canal with as much expedition as the resources of the State would admit; and because the financial condition of the treasury would not justify the Legislature in commencing a new work of such extensiveness.”

At the opening of the session of 1825, his excellency Governor Clinton called again the attention of the Legislature to the improvement of the navigation of the Hudson river; and though as a friend, as a man of science, and as one of the commissioners for the improvement of the navigation of the Hudson, he had unequivocally expressed his opinion on the superior advantages of canalling to any other method of overcoming the obstructions, he condescended to yield to that local interest, more inclined to maintain an exclusive intermediary navigation by steam and sails, than to admit concurrent Atlantic vessels, which, by their competition, would raise the price of produce, and lower the profits on the country supplies: His Excellency mentioned among the plans proposed to remove the obstructions, a renovation, with additional excentricities, of the old discredited scheme of contraction by the means of dams, combined with longitudinal docks, intended to connect together the various shoals and islands on each side of the river, and to cut off the respective shores from the use of that stream, in order, as it was hypothetically contemplated by the planners, to dislodge by the acquired velocity of the water, the concreted depositions disturbed by local excavations, and procure by it, certainly not a good navigation for vessels of all description, but only a passage for steamers through channels too narrow and too swift for sailing vessels to beat against contrary winds, tides and freshets. That plan, warmly supported near the Legislature, met at first the approbation of a majority of the joint committees on canals and public improvements, and was even embodied in a bill reported to the two houses: but as soon as the inhabitants and proprietors of the opposite shores, in the towns of Greenbush, of Schodack and other towns below, bordering on the river, were informed of the progress which that excentric plan had unexpectedly made in the said joint committees, they most respectfully remonstrated against it as citi

zens of this State, and as citizens of the United States; representing, that since the great question relative to the navigation of the Hudson river, had been decided on legal and constitutional principles, by the Supreme Court of the United States, and since the court of last resort of this State, had adhered to the decisions and admonitory principles of that high court of national judicature, the Hudson river being henceforth to be considered, as far as the tides ebb and flow, as an arm of the sea, or a navigable river, no local authority or individual, according to our public law, which in that respect is the law of all nations, could, in such a river, injure other citizens in their easements or enjoyment of a free and open access in any direction to the use of her waters, either for navigating or fishing; nor construct therein any building that would occupy and alter the course of the waters by contraction or dilation, nor by the repulsion of the waters against opposite shores, corrode and carry away their soil, to the great damage of the proprietors, as it hath happened in several places opposite the State dams already constructed. The remonstrants did offer many other facts and authorities to shew the impropriety of the contemplated plan, and to the honor of the Legislature, the reported law did not pass.

The steam interest, however, anxious to get a channel cleared for the accommodation of their boats, hath continued to hold up the idea that local excavation could procure all the navigation that the commerce of Albany and Troy required; but the Legislature hath perseveringly refused to throw away any more public money for those illusory notions, except for the construction of a wonderful steam dredging machine, which was, in a very short time, to dislodge and transfer wherever it would settle below—a body of about 16,443,352 hogsheads of alluvial matter, which must be removed to open a sufficient channel at least 40 rods wide and 9 feet deep, between Albany and Coeymans. That miraculous mud-turtle hath been built, but after many fruitless experiments, and considerable expense for its repair and management, it seems to have remained in a state of torpor.

In the year 1826, the same citizens who had opposed the preceding year the erroneous and illegal plans of improvement above mentioned, being conscious that their only result would have been an additional useless waste of public money, generously formed an association, to execute, at their own risk, the ship canal; the plan of which, sanctioned by the Legislature, had been adjourned by finan-

cial considerations. Their petition was graciously received by a great majority of the Legislature, but again secretly opposed; and as the revised Constitution of this State hath vested in the minority the power of nullifying the will of the majority, on the grant of charters of incorporations, the said petitioners were deprived of the advantage of undertaking that same year, the same splendid national work, which they solicit again the favor of carrying into effect, under the aid and patronage of the Legislature. In the mean while the opponents of the ship canal, having lost all hope of obtaining from the government of this State any more public money, to be thrown into the river, have changed their tactics, and have prevailed upon the corporations of Albany and Troy, to address themselves to Congress, in their municipal capacity, and by the management of their friends at Washington, they have obtained that a new, very costly and very unnecessary resurvey of the Hudson should be made by the officers of the General Government. An engineer of the United States, Colonel De Witt Clinton, was entrusted with that commission; and though that interesting young man seemed to be, like his father, of opinion that lateral canalling was the best way to obviate effectually the obstructions, his operations having been carefully limited by the applicants within the metes and bounds of the present bed of the river, he hath been obliged to confine his survey to those premises, and to adapt, as well as he could, to the numerous obstacles which the nature of things opposed to an effective and permanent improvement, a plan based a great deal more on the wishes of the applicants, than on the insurmountable difficulties with which the accomplishment of their plan was vetoed, as much by the laws of nature, as by *the law of the land*.(2.)

In justice, however, to Col. Clinton, it must be stated here, that he requested Mr. Genet in the most friendly and pressing manner to supply him with a memorial shewing the pre-eminent advantages of a lateral canal, which he offered to annex to his report. But Mr. Genet referred him to the report and survey of the State Commissioners above mentioned, which he found already in his possession, and did not think proper to avail himself of his invitation; considering, in the first place, that his plan of a ship canal having been presented to, and adopted by the Legislature of the State, and what is more, recommended by the latter to the attention and concurrent assistance of Congress, that plan had ceased to be his property; it had become a part of the canalling system of the State, and it was the province of the State to support it or abandon it. And in the se-

cond place, that the illegal scheme of altering, by contraction or otherwise, the natural course of a national navigable river, assimilated by the settled law of the land to an arm of the sea, was so contrary to that unalterable principle of law, as it hath conclusively been proved by Mr. Th. Jefferson in his learned memorial on La Batture at New-Orleans, by Hale in his treatise *De Jure Maris*, and by many other law authorities, that there was not the least probability that improvements, not claimed by the local sovereignty, and offering besides but advantages of a private and local nature, limited to steamers and river craft, could have the least chance of being acceded to by Congress. In this case, however, it appears that Mr. Genet was better acquainted with the course of the Hudson river, than with the course of things at Washington; for it hath so happened, (to use the own expressions of our energetic President in his admirable message at the opening of the present session of Congress,) "That by combinations to squander the treasury of the country upon a multitude of local objects, as fatal to a just legislature as to the purity of public men," a "hasty" appropriation of \$70,000 hath been made on the simple request of two subordinate municipalities of this sovereignty; which appropriation hath been dexterously amalgamated in the same bill to other appropriations, not less, if not more unconstitutional, in order, it is presumed, to render the latter more palatable to the delegates and senators from New-York, and by such superfluous public expenditures, to procrastinate the reduction of an excess of imposts, which have unfortunately become the cause of the most afflicting civil commotions. But the undaunted firmness of the President, and the independent mind and piercing eye of our senators, hath defeated that ingenious contrivance; and it does not require a deep calculation on probabilities, to anticipate that a renewal of the same application will meet with the same fate.

It is unnecessary to shew in this memorial, that the accession of maritime navigation to Albany, and sympathetically to the places linked and connected together at the termination of the western and northern canals into the Hudson, would immensely increase their commerce, and make them participate, not by virtue of a law calling them nominally *ports of entry*, but *de facto*, in all the fruitful branches of navigation and commerce which our most flourishing seaports cultivate with so much advantage to themselves and to the Union. But in a general point of view, it is of the highest importance to shew that the cities of New-York, Albany, Troy, and

the various trading places connected with them, at the head of the tide waters of the Hudson, have to contend with growing and ambitious rivals, and particularly with the British provinces of Canada, ardently engaged in promoting all the natural and artificial land and water communications, calculated to draw the produce of our western empire, and even the produce of some of our western and northern counties, into their markets; and that unless every possible effort is made to reduce the charges, which an expensive intermediary river navigation, and secondary deposits on the seaboard require, the rapid increase of business and shipping on the St. Lawrence, (*which, at Quebec, in 1831, amounted to 1029 ships and 263,313 tons,*) demonstrate that those markets and seaports, under the immediate care and patronage of the greatest mercantile and maritime European nation, may more and more drain a considerable proportion of the sources of wealth opened by the spirit and the treasures of this State to the enterprising genius of our citizens. It is the department of merchants and shippers to calculate the items of the diminution of charges, which the reduction of the above mentioned intermediary expenditures would procure; but statesmen, without entering into those details, may fairly admit, that by the means of steamers and a ship canal, the difference, in point of time, between Albany and New-York, to receive the largest ships from the Hook, or send them directly to sea, will not exceed about forty-eight hours, and of course would cut off a very large proportion of the present intermediary charges. It is also obvious that the combination of maritime commerce, with a great and extensive complex inland market, abounding with banking capitals, would greatly accommodate the country merchants; encourage all the arts and trades which the Atlantic navigation every where fosters; increase the population, and with it the value of property; and soon consolidate into one great central mercantile emporium, those flourishing cities and villages extending on both sides of the Hudson from Albany to Waterford, a distance nearly equal to the longitudinal extent of Paris and London, which, in their origin, were also composed of various places, united since by a mutual attraction.

This memorial having been intended to present a concise view of the origin and progress of the plan of the contemplated ship canal, reference is made to the report of the State Commissioners appointed by the Legislature in 1819, for the details of the survey, and the observations made under their direction. It seems, however, proper to offer here, in a summary way, a description of the track,

plan, and cost of the said ship canal, and of its probable income when completed, in order to spare to the reader the trouble of perusing those extensive documents.

The course or track of the ship canal would be from the city of Albany, (Messrs. George Tibbits and Townsend M'Coun, members of the commission, having objected to its being explored as far as Troy,) through the most favorable crossing place or places, whose depth could be improved by local excavations, to the flats of Greenbush; thence through the said flats, and a creek in the town of Schodack, to the front part of the village of Castleton; thence through low land, meadows and islands, to the Schodack creek; thence through the same, to one mile and a half below Schermerhorn's store; from thence in an oblique direction, it would reach through an island and a creek, to an outlet called by the Dutch Vyvde hook, to the deep waters of the Hudson between Coeymans Landing and New-Baltimore, where, at the lowest water, there is a depth of  $19\frac{7}{8}$  feet. At the entrance and outlet of the canal, there would be a pier with a guard-gate, whose service would only be to exclude the alluvial matter and the floating ice, propelled by the river, or repelled by the tides. Intermediary locks would not be wanted, the fall of the land being purely sufficient to keep a useful gentle current in the canal. The proportions of the canal would be  $18\frac{7}{8}$  feet deep at high water; the bottom 35 feet deep; and the surface of water,  $109\frac{7}{8}$  feet; the whole being calculated for the simultaneous passage of two ships of 600 tons, or two sloops loaded with boards. The eastern embankment would have the same elevation as the western embankment, but only half the breadth of the latter, intended for the towing-path; both being two feet above the highest freshets known in the river. And as these two embankments would not consume the whole of the excavated ground, the surplus would be disposed of, either to raise the embankments higher, or to fill up and improve the adjoining low lands. Grated sewers would convey into the canal the abundant supplies of water descending by several creeks from the eastern shores; and where it should be requisite for the trading places on the line of the canal, they would be provided with basins and accommodation gates; while the farmers, whose low lands would be cut off by the canal, would have stairs to keep their boats and scows, as it is practised by the farmers of Schodack landing, to communicate with their fertile islands.

The cost of the canal hath been correctly calculated by Mr. John Randall, on data supplied, 1st. by Mr Samuel Young, one of the Canal Commissioners, of the prices for deep digging and excavating in the most difficult places on the internal canals; prices very much reduced since by the improvement of the art of canalling, and much superior to what they would be on an alluvial bed in general very easy to work. 2d. On data supplied by Mr. Hooker, surveyor and architect of the city of Albany, for the price of the works of art that the canal would require. From which data, Mr. Randall hath ascertained, by the most attentive calculations, that the whole canal complete, including the expense of a steam pump, to drain the intruding water during the excavations, would not exceed \$661,559. A sum about equal to the money already spent in the bed of the river for useless improvements, and vastly inferior to what the plans presented by Colonel Clinton would cost when completed as far as the transfer of the alluvial matter, to places enjoying now a good navigation, which transfer would legally require an extension of the improvement recommended by that engineer, amounting to \$221,504, to procure hypothetically a depth of only 9 feet, in an undetermined width.

It hath been thought proper, however, to apply to the Legislature for a capital of \$800,000, with the privilege of extending it to a million of dollars, in case of error; or to provide means for the establishment of steam ice-stampers and night-lights.

It now remains to shew, that setting aside the public utility of the contemplated canal, it will not be an indifferent or an unprofitable object of speculation, notwithstanding the most absolute freedom of the waters of the river, through the seat of the alluvions, and notwithstanding the full enjoyment of the overslaughts, of the freshets, of the contrary tides, head winds, low water, floating and permanent ice, to all those who will prefer the uses of those inherent and undisputed privileges, to a speedy, punctual and improved navigation for vessels of all description.(3.)

A few facts will be sufficient to prove that the superior advantages of the canal over the obstructed part of the river, leave no doubt on the preference which the canal will command, without any compulsion of law. In the first place, the shallowness of the river in her obstructed section, confines the vessels employed in the navigation of the places situated along those obstructions, to a peculiar flat-bottomed construction, which puts them upon a very unequal

footing, in point of sailing, with the sharper built and more expeditious sailers from the places below; a disadvantage which the canal would enable the first to overcome, and in which they would not persevere.

In the second place, it is well known that the tides ebb and flow alternately, and that either in going up or down the river, one-half of the navigating time is lost for the sailing vessels, by the impossibility of beating against the tides or the winds, through the narrow channels contracted by the overslaughts or by the dams; a fact which is strongly supported by the comparative tables drawn by the scientific Doctor T. Romeyn Beck, from observations made at the Albany academy; which tables shew that on an average of six years, the wind hath blown

Directly due north,..	254,	} Total north, 746 days.
Northwest, .....	432,	
Northeast, .....	60,	
Directly due south,..	477,	} Total south, 1,005 days.
Southeast, .....	425,	
Southwest, .....	103,	
Due east, .....	60,	} Total side winds, 474 days.
Due west, .....	414,	

So that the present river navigators, who are not as fond of laying at anchor as the river skippers of olden times, would undoubtedly also give the preference to the canal, practicable by day, by night, and during the thickest fogs.

In the third place, while the ice floating or dammed up by the pretended improvements in the river, or consolidated as far as the deep waters, would lay an embargo on all navigation on the river, the canal during those periods, kept free of floating ice, and containing nothing but fragments of ice pounded by the ice-stamper, would open a free communication as far as its outlet, where generally the navigation remains uninterrupted a fortnight earlier, and a fortnight later than through the whole extent of the obstructions; and sometimes, as it hath been the case the last years, during a much longer period in the spring, when the dams have retained mountains of accumulated ice obstinately seated.

In the fourth place, it is a lamentable fact, but unfortunately it is one too well ascertained, that the proper waters of the Hudson, diminish rapidly; and that the dams, by their contracting operation, reduce the influx of the tides, which would replenish for a



while that depression: and it is obvious accordingly, that in times of droughth, when the tides and the waters are low, as the flattest bottomed vessels would in vain attempt, by force of wind or steam to work their passage through impervious shoals, the canal in those cases, now very frequent, would also have the preference.

Therefore, if it is admitted that the tonnage employed on the river between the northern markets and New-York, which by accurate statements, amounted in the year 1818, before the completion of the canals and the great increase of the steam navigation, to 21,000 tons, amounts now to 50,000. And if it is also admitted on the strength of the facts above stated, that one-half only of the managers of that tonnage would prefer the ship canal to the overslaugh, and would perform each not more than 15 trips,(4,) or thirty passages in a season, it will be evident that at the very low rate of toll of one cent per mile per ton, exclusively of the additional tonnage which the accession of the Atlantic navigation would procure; exclusively of the relative increase of trade and trips, and exclusively of the accessory charges for towing the vessels and breaking the ice, the receipts would amount to 97,750 dollars; leaving a surplus of 27,750 dollars, above the interest of one million of dollars, at 7 per cent per annum: An income which, alone, would render perfectly safe and profitable, investments of public and private funds, in the stock of the Ship Canal Company; and would justify a constitutional appropriation of national funds by Congress, liberal loans or investments by the State, and well calculated contributions from those who are interested in the prosperity of our great central emporium, either as landholders, merchants, manufacturers, mechanics or agriculturists, from the shores of the Hudson to the remotest parts of the State, and as far as internal navigation extends on our mediterranean seas.

E. C. GENET.

*Prospect-Hill, January 15, 1833.*

## NOTES.

### (1.)

*On the formation of the alluvions at the head of the tide waters of the Hudson river, and the diminution of the water in that river.*

Without reascending to the geological history of the primitive state of this part of the American continent, to discover at what epoch the waters of the ocean were rolling on its surface, and when they burst through their Appalachian barrier and uncovered the soil which we now inhabit, suffice it to say, in reference to the subject of this memorial, that as soon as that great revolution had subsided, the Hudson river was on this side of the Highlands, several miles wider than it now is; that she hath experienced progressively, a reduction in the collection of her aqueous supplies, and that the Atlantic influx, maintaining its ascendancy hath at each tide, checked the descent of alluvial matter and confined it to the present seat of the obstructions, which by its total want of geodesic declivity hath baffled all the attempts made to remove those increasing alluvial deposits, by excavation and contraction. It hath been remarkably the case at the principal bar called the Overslaugh, where a longitudinal dam of about a mile long on the west side of the river, and the Papsknee island on the opposite side, contract the channel more than in any other part of the river, where the mud turtles of Albany have been constantly at work; and where, notwithstanding the contraction operating as much in favor of the ascending tide as in favor of the descending current, a perfect nullification of the two opposite forces takes place, of which the settlement of the alluvial matter which the freshets contain is the inevitable consequence.

But it is not the formation of the alluvious alone, which injures the navigation of the Hudson; there is another cause; it is a very sensible diminution of the proper waters of that river: a growing and very alarming evil, which may be attributed to a considerable absorption of her former feeders, by the Erie and Champlain canals, and to the clearing of the land contiguous. Trees seem to be, by an hydrovegetal attraction, the conductors and condensers of the dampness which supplies the springs and rivulets, while their roots bind together the soil upon which they grow, and prevent on the side hills its disintegration: but when these old inhabitants of the primitive forests have fallen under the axe of the agriculturist, the dampness drawn and retained by them on the surface of the earth evaporates, the springs dry up, the rivulets cease to flow into the larger creeks, and the particles of the soil let loose, are washed away by the rains and carried by the freshets into the river, where meeting a powerful resistance from the spring tides, the force which propelled them is annulled, and the law of gravity assuming its course, the drifted matter seeks instantly the centre

of the earth and settles down, either on the old alluvions or into new ones, which the hydrostatic pressure of the incumbent column of water soon consolidates into a hard-pan, very fatal to the buckets of the excavators, otherwise called mud turtles.

If the tides could be stopped, if a descent could be procured through the seat of the alluvions to create an operative current; if the former feeders of the Hudson could be withdrawn from the State canals; if the primitive forests which covered the lands adjoining those water ways could be replanted; and if the irrational dams, so expensively constructed in the river, could be removed to open a wider entrance to the influx of the tides, perhaps the navigation in the obstructed part could be in some degree improved for sloops and steam-boats; but until then, nothing but a lateral canal can offer a permanent and efficient water communication between New-York and our great central markets for vessels of all descriptions, and prevent the approaching ruin of those flourishing places.

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( 2. )

*On the law of navigable rivers.*

The public law on navigable rivers rests entirely on natural law and on the laws of nature, and those two principles are so intimately connected by the ancient and modern legislators, that they cannot be separated without subverting the whole system. Whatever alterations nature operated in rivers was considered by the first civilized nations as the work of God, and was held sacred and unalterable. Therefore, by the laws of the Romans, it was established as a general principle, that no one had a right to complain of what a river took away, or to dispute what she gave by accretion or dereliction from or to the adjoining shores, provided it was not operated by the works of men. The Roman law, as expressed in the digest, S. 214, 43, 15, was on that account very strict with respect to buildings and constructions of any kind in the bed of a river, and required that ample security, during a period of ten years, should be given, that any such work should not injure private or public rights. It is on that principle, and several high authorities under the common law, that Mr. Thomas Jefferson, in his defence of the government of the United States, in the case of *La Batture* at New-Orleans, hath maintained, "That it is not lawful to alter or divert the natural course of a navigable river, either by contracting or dilating it." The late Chief Justice and Chancellor of this State, the learned James Kent, hath also contended, in the case of *Palmer vs. Mulligan*, "that no current water can be altered from its natural course by the laws of men, the right to those waters being derived from the law of nature," called by Bacon the law of laws. That sacred law is also the main foundation of the laws of several modern nations on alluvions and rivers, which would be

entirely subverted if any other power but the power of nature, left entirely to herself, was suffered to interfere in the formation or disintegration of submarine or subfluvial property adjoining shores or uplands, or *deprive* any one of his easements or enjoyments and fisheries.

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( 3. )

*Estimate of the cost and profit of a Ship Navigation substituted for direct exportation, to a Sloop intermediary Navigation as far as New-York.*

A Steam Towing Boat, valued at 30,000 dollars, and yielding 20 per cent. interest, amounting yearly to..	\$6,000 00
Seven men at \$2 per day, 240 days being reckoned a season, will cost.....	3,360 00
Six cords of wood per day, at \$4 per cord, amounts to	5,760 00
	<hr/>
	\$15,120 00

One passage being made from New-York, or the Hook, in 48 hours to Albany, 240 days would make 120 passages, and if \$15,120, including 20 per cent interest, is the amount of expense, the charge of the steam boat for towing a ship of 800 tons, one passage might be fairly valued at \$126.

Now if we compare with that estimate made by Captain Wiswall, well known by his experience in the steam navigation, the expense of transporting 800 tons or 8,000 barrels from Albany to New-York, by sloops, or by a ship propelled by a steam-boat, it will be found that the aggregate freight of the sloops, at 25 cents per barrel, would amount to \$2,000. That the storage and wharfage in New-York, valued at six cents per barrel, would amount to \$480, making in the whole \$2,480, whilst the expense of towing a ship of 800 tons to and from New-York would only be \$252, to which adding the canal toll of 204 dollars, the whole cost would be \$456, leaving a profit of \$2,024 in favor of a cargo of 8,000 barrels for exportation made at Albany instead of New-York, equal to one-fourth of the ordinary freight for Europe, and one-half for the West Indies.

If Albany becomes effectually a port for Atlantic as well as for river vessels, there will be a clear profit of \$4,000, to make up a cargo of 8,000 barrels of Genessee flour at that place instead of Quebec, inasmuch as it is reported that the transportation of a barrel of flour through the lakes to the latter place, amounts to \$1.25, and that all the expense from Rochester to Albany, through the Erie Canal, does not exceed 75 cents per barrel of flour.

## (4.)

## COMPARATIVE TABLE

Of the trips performed in a season in the present state of the navigation of the Hudson, every thing supposed to be equal in point of diligence and industry, between the city of New-York and the places under-mentioned, by the sloops employed in the carrying or transportation trade on the river.

PLACES.	Trips.	Passages.
Waterford, .....	9	18
Lansingburgh, .....	10	20
Troy, .....	12	24
Albany,.....	14	28
Hudson, .....	19	38

## OBSERVATIONS.

If the best sloops of Albany do not perform, with a great deal of industry, more than 14 trips or 28 passages, the average freight of which, valued at \$500, may bring to the owner for one season \$7,000, it follows of course that the sloops of the city of Hudson, rated at the same tonnage and freight, bring \$2,500 more than the sloops of Albany per season. But if it is considered that, favored by a canal navigation, (allowing one trip lost on account of the additional distance between Hudson and Albany,) the sloops of Albany could not perform more than 18 trips or 36 passages; and that the canal toll, at one cent per ton per mile, for one season, for a sloop of 80 tons, would be \$374, and that the horse towing charge would be \$72, making in the whole \$446, the owner of an Albany sloop would make by her freight \$8,554, offering a clear profit of \$1,554 in favor of the canal navigation. But in reality, as the merchants of Albany could employ larger and sharper sloops with the same number of hands, and as the canal could be clear of ice one month longer than the river over the alluvions and dams, and as they could navigate the said canal in the darkest nights and thickest fogs, the profits on navigation would certainly be much increased.

**No. 25.**

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**IN SENATE,**

**January 23, 1833.**

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**REPORT**

**Of the Canal Commissioners, on the petition of Ogden Mallory.**

The Canal Commissioners, to whom was referred by the Honorable the Senate, the petition of Ogden Mallory,

**REPORT:**

The petitioner states, that some time in the month of May, 1826, he became the owner of a contract entered into between the Canal Commissioners of the State of New-York, and Abraham L. Beaumont and others. By which contract the said Abraham L. Beaumont together with Lawrence Barclay and James O. Cole, covenanted and agreed to construct locks Nos. 8, 9, 10 and 11 on the Oswego canal, to be in all respects similar to the locks on the Erie canal at Syracuse.

The petitioner represents, that at the time he became the assignee of said contract, he was expressly informed by the assigners thereof, and he understood the terms of said contract to be, that the work contemplated to be performed, did not include the digging of the pits, or the making of embankments, or any excavations for said locks. That with this understanding he expended about seven thousand dollars towards completing the work specified therein. That after expending this amount, he for the first time was informed by the Canal Commissioners, that the contractors were bound to make all the excavations and embankments necessary for building said locks.

The petitioner further represents, that upon remonstrating with the Commissioners upon the extreme hardship of the case, he was

advised by them to finish his contract, and that he would receive compensation for all extra work beyond what was contemplated as being embraced in the terms of the contract.

The petitioner further represents, that in accordance with this advice he finished the locks, and in so doing incurred a heavy expense, far beyond the amount of compensation specified in the contract.

The petitioner prays that an allowance may be made to him for all extra expense which he incurred in making the locks, or such other relief as to the Legislature shall seem just and proper.

The present Canal Commissioners have no knowledge of the contract referred to, except what they have obtained from the petitioner and from the papers on file in the Comptroller's office. They understand from the petitioner, that the conversations mentioned by him in his petition as having been had with the Canal Commissioners, were with Henry Seymour, Esquire, then one of the Commissioners.

By the papers on file in the Comptroller's office, it appears, that on the 10th day of August, 1825, a contract was entered into between Abraham L. Beaumont, Lawrence Barclay and James O. Cole of the one part, and the Canal Commissioners of the State of New-York of the other part, by which it was among other things agreed, that the said Abraham and his associates were to construct locks Nos. 8, 9, 10 and 11 on the Oswego canal, in all respects to be similar to the locks already constructed at the village of Salina, for which the Canal Commissioners agreed to pay for locks Nos. eight and nine, seven hundred dollars per foot rise, and for locks Nos. ten and eleven, seven hundred and fifty dollars per foot rise. It also appears, that on the 19th day of May, 1826, the petitioner took an assignment of all that part of said contract, for constructing locks Nos. 8, 9, 10 and 11, and was authorised by said assignment to proceed in the work as the contract directed, and empowered to receive the pay for the same.

On the 29th day of February, 1828, the petitioner presented to the Canal Board a petition, for an extra allowance for constructing the four locks mentioned in the contract. The Canal Board on that day took testimony on the part of the petitioner, and on the third of March thereafter, made him an extra allowance on the following items:

For difference in expense of procuring backing stone for lock No. 9, over estimate, .....	\$150 00
Damage done to lock No. 11, in consequence of the erection of the Oswego dam, .....	300 00
The location of lock No. 8 was changed; and the building of it made more difficult, extra expense as follows:	
Removing of lock pit, .....	750 00
Damage by floods to pit, .....	450 00
Excavation of pit worse than other, .....	1,530 61
Increase in the length of locks, .....	574 82
And in the excavation of foundation and embankment, .....	50 00
	<hr/>
	\$3,805 43

The following estimate and receipt, is on file in the Comptroller's office:

Estimation of Abraham L. Beaumont and Co's. contract on the Oswego canal, for section No. three and locks No. 8, 9, 10 and 11.	
Grubbing 1½ miles, at the rate of \$700 a mile, .....	\$1,225 00
18,307.20 cubic yards of earth excavated at 6½ cents, .....	1,235 73
	<hr/>
	\$2,460 73

Lock No. 8 seven feet lift, with the walls raised 5 feet as a guard lock, making 12 feet, at \$700, .....		\$8,400 00
Lock No. 9, 8 feet lift, at \$700, .....	5,600 00	
Lock No. 10, 8 feet lift, walls raised 5 feet as a guard lock, at \$750, .....	9,750 00	
Lock No. 11, 8½ feet lift, at \$750, .....	6,090 00	
	<hr/>	\$29,840 00
The Canal Board allowed to the contractor on this contract for extra expense in executing it, .....	3,805 43	
	<hr/>	\$33,645 43

The above work is finished and accepted.

WILLIAM JEROME, *Engineer.*

HENRY SEYMOUR, Esq. *Canal Commissioner.*

Albany 11th March, 1828.



*Payments.*

1825, November,..	\$300 00	1827, November,..	\$6,500 00
1826, January,....	900 00	1827, May,.....	4,000 00
May,.....	2,500 00	August,.....	1,500 00
June, .....	600 00	October, ....	500 00
" .....	600 00	November,..	101 51
" .....	400 00	December, ..	1,000 00
July,.....	660 73	March, .....	100 00
" .....	3,500 00	" .....	400 00
August,.....	3,000 00		3,543 92
October, ....	2,000 00		
" ....	2,000 00		
" ....	2,000 00		
			<hr/>
			\$36,106 16

*Albany, April 7th, 1828.*

Received of Henry Seymour, Canal Commissioner, three thousand five hundred forty-three dollars and ninety-two cents, which with the payments noted in the margin, is in full of the above account.

ABRAHAM BEAUMONT,

By their Attorney,

OGDEN MALLORY,

It does not appear from the proceedings of the Canal Board, that any allowance was made to the petitioner, for the excavation of the lock pits, or the embankment around the locks, or that any testimony was taken in relation to that part of the petitioners claim presented to that Board.

The principal question, is in the opinion of the Commissioners, upon which the petitioners claim to a further allowance must rest, are whether by the contract the locks were to be constructed for the sum mentioned for each foot rise, including the excavation for the lock pits and embankments around the locks, or whether the contractors were to be paid for that work over and above the contract price for each foot rise of the locks? Upon these questions the Commissioners can give no further information, except what will be found in testimony taken by the Canal Board in the case of Allen and Knox under a similar contract, which was communicat-

ed to the Legislature on the first of March, 1831, and is to be found in the Senate Documents of that year, and numbered 42.

JONAS EARLL, JR.  
S. YOUNG,  
WM. C. BOUCK.

Since the above report was drawn, it is has been discovered, that the Canal Commissioners made a report to the Honorable the Assembly, upon the petition of Ogden Mallory on the 2d day of April, 1829, which will be found in the Assembly Journals of that year at page 930. A report upon the same subject from the committee on canals, will also be found in the same Journal, at page 932.

JONAS EARLL, JR.  
WM. C. BOUCK.



**No: 26.**

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**IN SENATE,**

**January 25, 1833.**

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**REPORT**

**Of the Surveyor-General on the petition of Jacob Shew.**

The Surveyor-General, on the petition of Jacob Shew, referred to him by the honorable the Senate,

**RESPECTFULLY REPORTS:**

That the petitioner states, that in March or April 1782, he was enlisted by a class of the militia, (the head of which was Garret Van Brockler,) as a soldier in Captain French's company, in Col. Willet's regiment, and that he served as such for the full term of nine months. By virtue of the 3d and 4th sections of the act, (Chapler 22,) passed March 23, 1782, a class furnishing a recruit, in the manner set forth by the petitioner, was entitled to a bounty of 200 acres of land, and the assignee or assigns of such class became entitled to make a location to that amount, on delivering the assignment, with the certificate of the muster-master, that the class, which was distinguished by the name of the person who was at the head of it, had delivered an able bodied man to serve as required by the act, but the name of the recruit in many instances was not given. The account of the class rights in the office, are therefore kept by the names of the heads of the classes. After a careful search, the name of Garret Van Brockler, as the head of a class, is not found.

It is therefore concluded that, if such a class became entitled to the bounty, it has not been located.

Respectfully submitted.

**SIMEON DE WITT,**

*Surveyor-General.*

*January 25, 1833.*

**[Senate, No. 26.]**



**No. 27.**

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**IN SENATE,**

**January 18, 1833.**

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**REPORT**

**Of the Inspectors of the Mount-Pleasant State Prison.**

*To the Honorable the Legislature of the State of New-York.*

The Inspectors of the State-Prison at Mount-Pleasant, in the county of Westchester,

**RESPECTFULLY REPORT:**

That from the thirtieth day of September, 1831, to the 30th day of September, 1832, including a period of one year, and to the time when the fiscal year terminates, Robert Wiltse, Esquire, the Agent of the prison, has received for the use thereof, (including a balance in his hands at the commencement of the year, of \$3,366 46,) ..... \$72,301 16

Of this sum there has been expended for the use of the prison, during the same period,..... 68,051 83

Leaving a balance in the hands of the Agent, on the 30th September, 1832, applicable to the wants of the prison, of..... \$4,249 33

All of which is more particularly detailed in a statement which accompanies this report, marked A, shewing from what sources the money has been received, and to what uses applied.

The receipts from the earnings of the convicts during the year have amounted to \$38,767.70; a sum much less than the labor was worth, and much less than it would have been had the Agent been free from the old and unfavorable contracts, which were made from the supposed necessity that existed of forcing the work

made here into market. Those contracts are principally fulfilled. The greater part of the work which has been done in the stone shops, during the year, has been upon these contracts.

This difficulty is now overcome, and contracts have been made which it is supposed will be sufficient to occupy the labor of the convicts for a great part of the current year, at a fair price for their labor.

Another serious injury to the fiscal concerns of the prison arose from the prevalence of the spasmodic cholera among the convicts. It is confidently believed that the actual loss to the funds of the prison, arising from the loss of labor, will not be less than one-sixth of the receipts from that source. Although that disease continued only about fifty days, still the state of alarm, the looseness of discipline which it produced, the time to recover from its effects and restoration of discipline, altogether is believed to have equalled two months ordinary labor of the convicts. The actual additional expense to the institution, produced in consequence of this disease, amounted to \$1,404.79, as will appear from the annexed paper marked A.

Since the last annual report one hundred and twenty convicts have, by order of his Excellency Governor Throop, been removed from this prison to the State-Prison at Auburn, sixty in the fall of 1831, and sixty in May, 1832. The removal of this last number was at the time attended with much inconvenience, and rendered a failure in the fulfilment of contracts for the supply of rubblestone inevitable; contracts had been made upon the supposition that all the convicts were to be employed at labor about the prison. The removal of sixty able bodied men could not fail to produce disappointment, both to the Agent and those persons who had contracted for the work to be prepared by the convicts.

This was not all the inconvenience sustained by such removal: in addition to the loss of labor of the convicts, the expense of their removal was about \$900.00, which was defrayed in part by the funds intended for the support of this prison; and the residue now remains a charge against them: as the law now stands, the expense of removal, including that of the officers and guards who attended the convicts during the journey, is a charge upon the prison. In addition to this expense each convict had a suit of clothes, which

was furnished by the Agent of this prison; each suit worth about four dollars.

Work has been done by the convicts upon the stone for the Capitol Park, Albany, for which the agent would have charged and received about \$750, from any individual, more than he is entitled to receive for this work. He is entitled to receive for this work only the expenses of the laborers, and not the worth of the labor.

The paper annexed, and marked C, contains an inventory of the property and effects belonging to the Mount-Pleasant State-Prison on the 30th September, 1832.

The number of convicts in this prison on the 30th day of September, 1831, was, .....	980
From that time to the 30th September, 1832, a period of one year, there has been received, (table I,)..	289
	<hr/> 1,269
During the same period, 133 have been discharged by expiration of sentence, (paper L,).....	133
153 have died, (paper K,).....	153
28 have been pardoned, (table M,).....	28
Transferred to Auburn,.....	120
Escaped during the cholera, .....	3
	<hr/> 437
Remaining in prison, September 30, 1832, .....	832

It affords us much pleasure to be able to state that the number of convicts received at this prison during the last year has been less than during the eleven preceding months by forty-nine. The difference arises undoubtedly in part from the fact that since some time in May last the fourth senate district and five counties in the fifth senate district, have been annexed to the Auburn prison district. During the months of May, June, July, August and September, 1831, the territory which has been taken from this prison district furnished to this prison twenty-five convicts, a number considerably less than the decrease of the convicts above stated.

We may ardently hope, but cannot reasonably expect, that with a population rapidly increasing the number of crimes will decrease. During the year covered by this report the increase of convicts has not been in proportion to the probable increase of population; indeed, the convicts have decreased about three per cent.



In the last annual report of the Inspectors of this prison, it was estimated that on the 30th September, 1832, the convicts in this prison would amount to twelve hundred. We feel great satisfaction in stating that this estimate has not been realized, and that it would not have been, had none of the convicts been taken from this prison and sent to Auburn, and had none died by cholera. The number of deaths by cholera was 103, the number sent to Auburn 120, which added to the present number would make 1055. The error in that estimate probably arose from an omission to estimate the number of discharges by expiration of sentence. The short sentences under the Revised Statutes having for the first, expired during the last year, no allowance for that circumstance was made.

The discharges by the expiration of sentence during the eleven months ending 30th September, 1831, were 65, during the next twelve months the discharges from the same cause were 133; the latter exceeding the former by 68; but this would not make the estimated number in the last report.

This prison contains one thousand solitary cells, and we are inclined to believe, that, for the present at least, no increase of cells will be necessary, but should the number of convicts increase beyond the number of cells, the present system of discipline which has been so distinctly marked by public approbation, could not be fully sustained without increasing the number of separate apartments so as to avoid the necessity of putting more than one convict in a cell.

The annexed paper marked D, exhibits not only the number of convicts on the 30th day of September last, but the manner in which they were employed. This statement, although correct at that time, should by no means be taken as a correct statement of their employment at another time. When the severity of the weather prevents working in the quarries to advantage, the number in the different shops is increased so as to keep the convicts employed in such a manner as to make the most from their labor.

From the annexed document marked B, the report of the physician to the prison, it will be perceived that at no time since the prison has been the receptacle of convicts, has the health of the establishment been as good as at the date of that report. From the same report it will be seen that 376 of the convicts took the extreme symptoms of the spasmodic cholera, and that one hundred

and three of that number died. The alarm which was produced by the appearance of this disease was very great, and for a time, much apprehension was entertained as to the security of the convicts, but after the first violence of the panic had subsided, all dangers seemed to pass away. The Inspectors witnessed with great pleasure the fearless devotion of all the officers connected with the establishment, to the care of the convicts and the safety of the institution.

During the extreme violence of this disease the prison was visited by his Excellency Governor Throop, in company with several medical gentlemen. His visit had a great tendency to restore confidence and dispel the fear of contagion, which had spread far into the country, and operated to cut off all communications between the persons in the village and the country, with those who were connected with the prison.

This timely visit in connexion with the manner in which it was performed, without fear or apprehension, visiting the sick, examining their different cases, had a most salutary influence; no single occurrence during the continuance of that disease had so great a tendency to quiet alarm and restore confidence, as this unexpected and benevolent visit.

The report of the chaplain, marked G, which accompanies this report, shows the moral condition of this institution. In this respect there has been a manifest improvement in the course of the last year.

The assiduous attention of the chaplain to promote the temporal as well as the spiritual condition of the convicts deserves the approbation of the Inspectors, and they trust his labors will be attended with much consolation to himself, and permanent benefit to the convicts.

They regret that the compensation which he receives for his services is inadequate to his deserts, and would suggest the propriety of increasing his salary to six hundred dollars a year.

The persons employed in and about the prison in different capacities on the 30th of September last, were as follows: one agent, one clerk, one deputy keeper, twenty-three assistant keepers, and twenty-nine guards. The number employed seems to be justified

by the situation of the prison, the quarries, shops, &c.; some of the convicts are employed in the open field more than a quarter of a mile from the prison, and the guard has been increased in proportion as additional facilities for escape are furnished by removing the convicts to quarries remote from the prison.

The accompanying document marked F, contains a list of the names of the female convicts supported at the expense of the State and confined at Bellevue, under the immediate care of the corporation of the city of New-York, on the 20th day of November, 1832. On that day thirty-six female convicts remained in prison. During the summer past eleven of the female convicts escaped from Bellevue; it was at the time when the cholera threatened to destroy all the inmates of that prison, advantage was taken of that panic. Eight also of the State convicts who were there confined, died during the past year, six of them with cholera, five have been discharged by expiration of sentence, and one by pardon.

The number of the female convicts on the 20th of November, 1831, was forty-six. The number on the 20th November, 1832, was thirty-six. The diminished number of this class of convicts is owing to the escapes and cholera; without these occurrences, the number would have been considerably increased over that of the last year.

In the month of October last, the Inspectors visited Bellevue, to see the actual condition of these convicts. They are confined in one room or on different galleries, but within the same general inclosure. No attempt has ever been made to establish a system of discipline among them; the old, the young, all colors and conditions are indiscriminately mixed together. The adept in crime is the companion of the novice in guilt; none can be there confined without suffering in morals from the companions of their confinement. Moral reformation cannot be expected so long as the present course is pursued with them; indeed, if any virtuous sentiments linger about the new convict sent to Bellevue, they are sure to be obliterated by the infamy of the character and conduct of those with whom they are associated by their confinement.

The attention of the Legislature has often been called to this subject, and the necessity of a separate prison for female convicts urged with great force. The Inspectors of this prison repeat the re-

commendation to the Legislature, to provide for this unfortunate and criminal class of community, a different place of confinement; a place which by the discipline established, shall tend to reform, and not as in their present condition, lead to inevitable ruin.

No doubt is entertained but the same discipline which now controls and subdues the male convict, may be made equally serviceable with the females. Under the charge of a judicious matron we cannot believe but great moral reformation may be produced. This consideration alone calls with great force for a change in the mode of punishing female convicts. It is also worthy of consideration to inquire whether the expense to the State would not be diminished by such change. The State now pays one hundred dollars a year for each female convict kept at Bellevue. They are not employed at any thing except cooking, washing, making and mending clothes for themselves, and this occupies but a small part of their time. The law is imperative as to the place where these convicts must be confined, and such sum must be paid as the corporation of New-York choose to demand, whether that sum be a fair compensation, or beyond the value of the services rendered.

The Inspectors learn from the commissioners of the alms-house in New-York, who have the immediate charge of Bellevue, that it is far from being desirable to them to keep the female convicts for the State at the price which is now charged; that it would be convenient for the city authority, to occupy occasionally with other criminals, the prison which is now used for the female convicts. They did not however manifest a decided wish to be released from the contract under which these prisoners are kept; and until some other place of confinement is provided, the present arrangement may probably be continued.

A convenient site for a prison for female convicts may be found on the State farm, in the vicinity of this prison; and the Inspectors do not hesitate to recommend its occupation for that purpose. The expense of such a building has often been the subject of estimate, and particularly in the report of the Commissioners of this prison to the Legislature in 1830.

This estimate was made, as we understand, upon the supposition that one prison only should be erected in the State for this purpose. If a prison for female convicts should be connected with

each of the State Prisons, the expense of the buildings at either place would fall far short of that estimate.

During the past year the south wing of this prison has been extended one hundred and forty-four feet in length, forty feet wide and two stories high, of solid stone masonry.

The north wing has also been extended twenty feet in length, thirty-five feet in width, and carried up two stories high, and the wing finished. This is also of stone. Additional work-shops, a store house, ox stables, and a guard house are necessary; and it is the intention of the Agent to erect them during the current year. An estimate of expense of the materials for building the guard house, store house, and ox stables is hereto annexed, marked E.

Upon the same paper is also a statement of the money now owing to the corporation of New-York for the support of female convicts, and the probable amount which will be required for their support, for the ensuing year; also the amount of the expenses of transporting convicts to the State Prison at Auburn. These several sums, as estimated by the Agent of the prison, amount to \$11,472.78.

These several sums are not directly connected with the support of this prison, and should not be a charge upon its funds. An appropriation for the purpose of covering their expense is thought by the Agent to be necessary. If this is done, he confidently believes that he shall be able, from the labor of the convicts, to defray all the expense of supporting the establishment for the ensuing year, without any aid from the treasury, and also perform the labor upon the contemplated building.

By the act of the Legislature of the last session, the Inspectors are required to accompany their annual report with copies of the monthly accounts furnished to them by the Agent of the prison.— These accounts from No. 1, to No. 12, inclusive, are sent herewith. The importance of these copies is not exactly understood, since the same accounts, with the original vouchers, are deposited with the Comptroller. It is however required by the law, and we comply with its demands.

The paper annexed, marked H, contains a list of contracts entered into, on which the convicts are employed.

The great inducement for locating the prison at this place, was the immense quantity of marble which is found on the State farm, connected with the belief that the convicts might be advantageously employed in preparing this article for market than at any other kind of business. The quarries have at different times presented discouraging indications; sometimes the quality of the marble has been indifferent, at other times the great difficulty in removing the immense quantities of earth under which the marble was buried, seemed to destroy the prospect of a profitable employment at the stone business.

Within the last year a decided improvement has appeared in the quarries, and they now bid fair to satisfy the expectations which induced a selection of this place for the prison. The quality of the marble is good; its value is now appreciated in the market, and contracts at a fair price are now offered sufficient to employ the great mass of the convicts, and we have no doubt but the proceeds from the labor of the convicts at the stone business, for the ensuing year, will fully prove this to be the most profitable business at which they can be employed.

PIERRE VAN CORTLANDT,  
JOHN FISHER,  
WALKER TODD,

*Inspectors.*

INSPECTOR'S OFFICE,  
State Prison, Mount-Pleasant, }  
December 26th, 1832.



## DOCUMENTS.

### Accompanying the Report of the Inspectors of the Mount-Pleasant State-Prison.

( A. )

*Expenditures for the year ending September 30, 1832.*

<b>For hospital stores and medical attendance for cholera</b>	
patients, .....	\$1,404 74
stock and tools for blacksmith's shop and lock shop,	1,466 08
do do stone shops and quarries,....	4,738 64
cash paid for transportation of convicts to Auburn,	393 70
travelling expenses, .....	97 57
building materials, .....	1,188 97
stock and tools for shoemakers' shop, .....	81 40
materials for convicts clothing and blankets,....	4,034 08
prison furniture, .....	94 56
fuel, oil and soap, including coal for smith's shop,	3,969 92
rations, .....	22,985 02
hospital stores and medicines, .....	351 85
stationary and postage, .....	128 96
discharged convicts, .....	383 50
apprehension of escaped convicts, .....	38 00
freight and cartage, .....	866 15
officers and guard, physician and chaplain, .....	23,320 98
square timber for docks, .....	155 86
paid corporation of New-York, for support of fe-	
males, .....	2,279 35
bibles for convicts, .....	72 50
	<hr/>
	<b>\$68,051 83</b>
	<hr/>
Cash on hand, .....	\$3,366 46
Received from contractors, .....	38,934 70
Treasury, .....	30,000 00
	<hr/>
	<b>\$72,301 16</b>
Paid out, .....	68,051 83
	<hr/>
Due, September 30, 1832, .....	<b>\$4,249 33</b>
	<hr/>



*Cash received from the following departments, during the year ending September 30, 1832.*

From Blacksmith and lock shop,.....	\$5,362 38
stone shops,.....	29,621 53
shoemakers' shop,.....	3,152 85
coopers' shop,.....	496 50
dock logs sold,.....	134 44
rent of house and farm,.....	167 00
	<hr/>
	\$38,934 70
	<hr/>

ROB. WILTSE,  
*Agent.*

( B. )

*The Physician of the Mount-Pleasant State Prison*

RESPECTFULLY REPORTS:

That the proportion of sick has been greater during the last than any preceding year. Diarrhœa, and other derangements of the digestive organs have been the prevailing disorders of the institution; those complaints were heretofore prevalent during the summer months, but for the past year have occurred with almost equal frequency at all seasons; together with those diseases, typhus fever was prevalent during the months of October and December; and during the month of November, nearly all the inmates of the prison were affected with influenza. In February, about forty of the convicts were attacked with measles. They had this complaint in its worst form—all however ultimately recovered.

The malignant cholera prevailed here during the months of July and August, having been preceded by diarrhœa and the common cholera morbus. The first case occurred on the 17th of July, and the last on the 4th of September. Three hundred and seventy-six convicts took the extreme symptoms of this disease, from which one hundred and three died; and nearly all the remaining inmates had the premonitory symptoms, or first stage of the disease. There have been forty-two deaths during the year from other diseases, viz: from fevers, six; consumption, twelve; dysentery, four; dropsy, eleven; chronic diarrhœa, four; accidental injury, two; rupture of a blood vessel, one; syphilitic ulcers, one; scrofula, one.

The fatal termination of many of those cases was no doubt hastened by the prevailing epidemic.

The general state of health here at present is extremely good, only seven persons from sickness are confined to the hospital.

A. KISSAM HOFFMAN.

*Mount-Pleasant State Prison, }*  
*September 30th, 1832. }*

## ( C. )

*Inventory of property belonging to the State Prison at Mount-Pleasant, as taken September 30, 1832.*

Blacksmith shop, stock, tools, &c. ....	\$3,299 22
Clothing and materials for do. (not in use,).....	5,975 60
Bedding mostly in use,.....	4,971 00
Kitchen furniture, ....	802 69
Shoe maker's shop, tools, &c.....	431 36
Tailor's " " .....	49 37
Cooper's " " .....	1,066 47
Stone shops and quarry, tools, trucks, carts and wheel- barrows, .....	4,666 50
Hospital stores and medicine,.....	212 81
Manufacturing shop, fixtures, and stock on hand, ...	674 85
Carpenter's tools, .....	286 62
Library, (bibles in convicts hands,) .....	600 00
Office furniture, .....	176 06
Prison hall stoves, &c. ....	281 30
	<hr/>
	\$33,494 79

ROB. WILTSE,  
*Agent.*

*September 30, 1832.*

## ( D. )

*Number of convicts and their employment.*

There was remaining in prison 30th September, 1831,	
980 prisoners,.....	980
Received during the year,.....	269
	<hr/>
	1,269
Discharged by expiration,.....	133
" death,.....	153
" pardon, .....	28
Transferred to Auburn prison,.....	120
Escaped during cholera,.....	3
	<hr/>
	437
	<hr/>
Remaining in prison September 30, 1832,.....	832

They are employed as follows:

<i>Department.</i>	<i>On work for sale.</i>		<i>On work for State.</i>		<i>Total</i>
Blacksmith and locksmith shop,..	45	.....	29	.....	74
Manufacturing shop,.....	6	.....	68	.....	74
Shoe shop,.....	48	.....	12	.....	60
Rail-road blocks and rubble stone,	156	.....		.....	156
Prison buildings, .....		.....	46	.....	46
Quarrying and carting for do.,..		.....	20	.....	20
Stone cutters,.....	187	.....		.....	187
Barrow men and waiters,.....	23	.....		.....	23
Kitchen cooks, bakers, washers, &c., &c.,.....		.....	17	.....	17
Prison hall waiters,.....		.....	12	.....	12
Sick in hospital,.....		.....	23	.....	23
In the 4 quarries,.....	140	.....		.....	140
	605		227		832

Of those employed in manufacturing shop is included the old, infirm, lame, &c., picking wool.

( E. )

*Estimate of expense for building materials for guard-house, store-house, and ox-stable, to be built the next year.*

Timber as per bill already purchased and not paid for,	\$979 89
800lbs nails, at 6cts,.....	\$48 00
20 boxes glass, at \$3,.....	60 00
200lbs lead, at 8cts,.....	16 00
500 yellow pine plank, at 20cts,.....	100 00
1,000 hemlock boards, at 10cts,.....	100 00
1ton iron, for doors and shutters,.....	80 00
30 cords wood, for burning lime,.....	120 00
Square timber for dock,.....	128 00
20 logs, for braces for dock,.....	43 00
1½ tons iron for braces and bolts, .....	112 50
	807 50
Due corporation of New-York, for keeping female State convicts at Bellevue,.....	4,595 39
Their probable expense for next year,.....	4,200 00
Add amount paid and remaining due for transportation of convicts to Auburn prison,.....	900 00
Whole amount,.....	\$11,482 78

The items of expenditure contained in the above amount have no connexion with the support of the prison. An appropriation for this amount will be necessary, if we are to pay the corporation, and put up the buildings contemplated.

ROB. WILTSE, *Agent.*

September 30, 1832.

( F. )

ATE C

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....	Life
....	14 y
....	7
....	14
....	7
....	4
....	Life
....	3 y
....	3
....	8
....	5
....	10



( G. )

## REPORT OF THE CHAPLAIN.

*To the Inspectors of State-Prison at Sing-Sing:*

During the past year there has been a manifest improvement in the moral condition of the prison. The number of those who give evidence of radical reformation *greatly exceeds* that of any previous time when I have been called upon to make my report. It would perhaps be ingratitude to God, disregard to the claims and interests of community, and injustice to this institution, were I to withhold such a public acknowledgment. Besides these, there are still a greater number, who are deeply impressed in view of their past lives, and present unforgiven state. The means and course of duties which I have pursued, are essentially the same as specified in a former report.

Our Sunday school being interrupted and deranged by the introduction of the *cholera*, has not since been revived, but will be, it is hoped, at the opening of the coming season. It is regarded as highly useful, especially to a certain class of these men.

While, in the righteous providence of God, we have shared largely in this awful and fatal epidemic, which has filled our country and the world with so much alarm, nevertheless, we have reason to believe that this trying calamity has not been without beneficial *saving* effects in many instances towards those who have survived. In my intercourse with the men, I have frequently found that impressions were then made which were deep and lasting. One was taken from the number of keepers, and others suffered an attack; while the mortality among the convicts amounted to about *one hundred*. To you who witnessed the scene it is unnecessary for me to say that it was well calculated to electrify the whole body, chained together by the peculiarity of their condition, with the most PROFOUND SOLEMNITY AND AWE. During this time the chapel being occupied as an hospital, the men were assembled in mass more frequently than ordinary in the open air, where the appropriate exercises of religion were performed, and where such communications were made concerning the threatening disease, and such precautions recommended as were deemed proper and necessary to their welfare. And among those who were seized and prostrated in the various stages of the disease, I was present as much and as often as duty and usefulness seemed to require. Alarm was below the sensation produced in my mind by this scene. I was made acquainted with the last desires and impressions of some; their hopes, and their FEARS, to whom I could but drop a word; and in the midst of so much either *personal agitation or torpor, or death*, and the *general* confusion necessarily incidental to such a state of things, though religious exercises were sometimes attempted, there was little opportunity of communicating, and as little for receiving or improving. IT SEEMED BUT A TIME FOR DYING. And I felt that the most to be done at this crisis was to remind them of past instructions, and of that Almighty and compas-

sionate Redeemer to whom they had so often been directed, and who alone had power to forgive sin. Some died in the triumphs of faith, who, in health, had evinced a radical change of character, and some seemed to obtain peace even at the twelfth hour.

The result of the effort made to ascertain what part intemperance has borne in the commission of crime is that about *four-sevenths* of the men were in the habit of intoxication before convicted, and that about one-third of this number were actually intoxicated when they committed the crimes for which they were convicted.

I have recently attempted to ascertain the amount of education severally enjoyed by these men; and although the investigation is not completed, yet as far as I have gone the result is, that about *sixty per cent* have been taught reading, writing, and many of them something of arithmetic—*ten per cent* reading only—*twenty per cent* sent to school but never learned to read—*four per cent* never to school—*five per cent*, education more than common—and *one per cent*, about first rate, in some instances *liberal*.

Some men have gone out into the world, and exemplified, during the past year, their reformation by a well ordered deportment; and I regret that from the wide and distant dispersion of these men, there is so much difficulty in coming at their future history: a plan however might be devised, which would in a great measure meet the difficulty, and by which this, in my view, most desirable end might be attained. It will require some little expense of postage but no inconsiderable trouble.

The more I am conversant with the operations and designs of prison confinement, the more I am confirmed in the belief that a *humane, though firm and rigid prison discipline*, so far from operating against the happy tendencies of the gospel, will serve as a handmaid and assistant to it. Where *moral influence* and the *divinely appointed means* are made to bear a conspicuous part as essentially necessary in humbling and reforming these men, the system is *nerved*; the discipline is aided, strengthened, and sanctified, as it were, thereby, and the whole machinery will co-operate, and move on most *harmoniously, impressively*, and under God, with *amazing effects* upon the consciences and conduct of these men.

JONATHAN DICKERSON, *Chaplain*.

SING-SING, December 20, 1832.

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( H. )

*List of contracts made by the Agent from September 30th, 1831, to 30th, 1832.*

Contract made with Robert L. Stevens, President of  
Camden and Amboy Rail-Road Company, for blocks  
and rubble stone,..... \$10,640 00  
Finished, and amount paid.

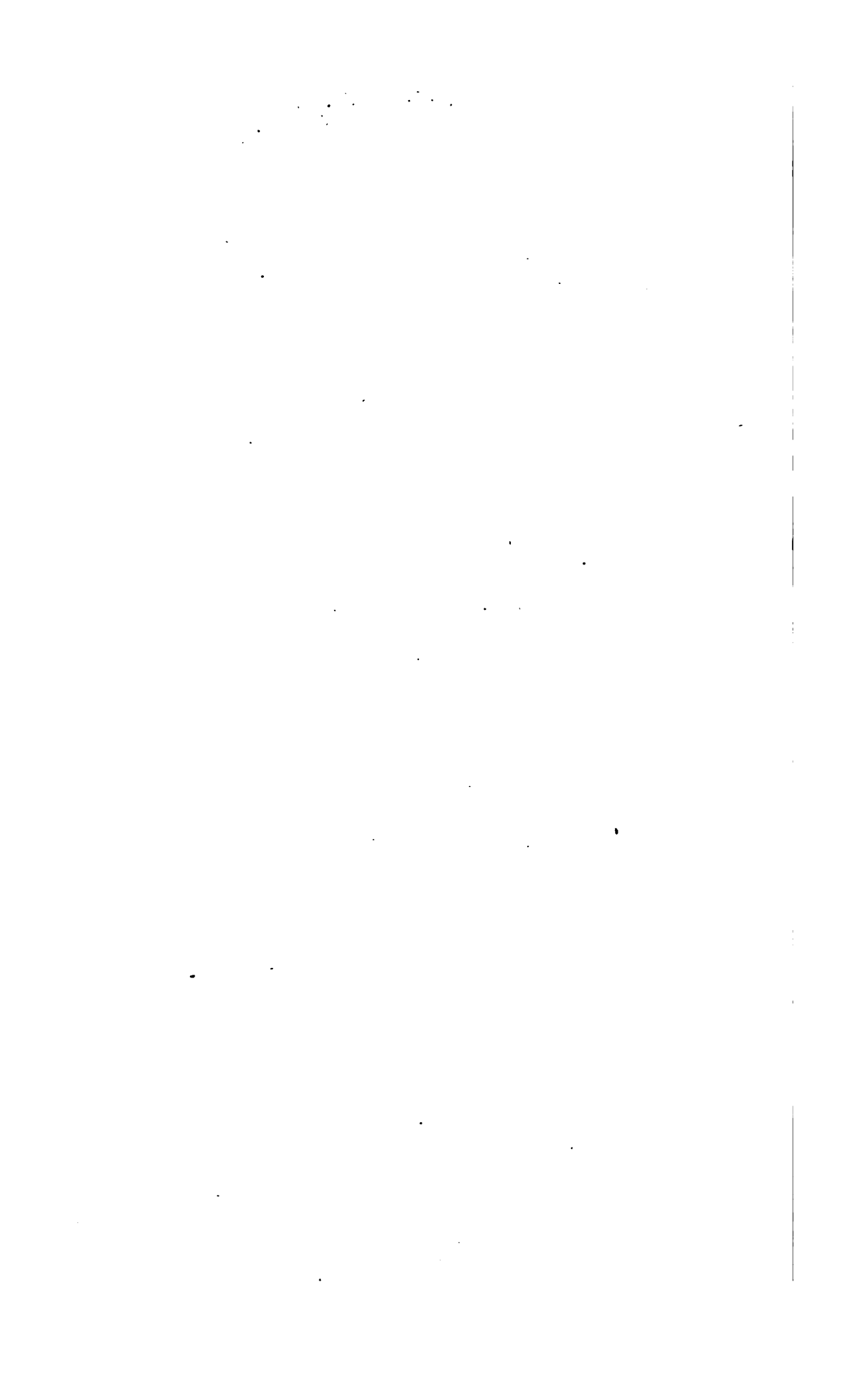
Francis Olmstead, for cut marble, amount,.....	\$1,300 00
Finished, amount due in 60 days.	
Nicholas Haight, for cut marble, amount,.....	544 30
Finished, amount due, (payable on demand.)	
Thomas R. Smith, for cut marble, for the French church, whole amount, .....	14,690 00
Contract to be finished on 30th Oct. 1833; nothing received on account, no payments due.	
Robert L. Stevens, for the Camden and Amboy Rail-Road Company, blocks and rubble stone,.....	11,400 00
Contract to be finished 1st of April, 1833.	
Received on account, .....	2,960 60
Amount due when contract is completed,.....	\$8,440 00

The above are all the contracts made by me during the past year. They will all be finished at the time specified.

ROBT. WILTSE,  
*Agent.*

*September 30, 1832.*





ember, 1831, to 30th

---

*Where born.*

---

New-York, .....	137
Ireland, .....	35
England, .....	24
Canada, .....	7
Massachusetts, .....	9
Scotland, .....	3
Pennsylvania, .....	11
Connecticut, .....	13
Maryland, .....	5
South America, ....	2
At sea, ....	1
Vermont, .....	6
Rhode Island, .....	3
New-Jersey, .....	14
District of Columbia,	1
New-Hampshire, ...	2
Virginia, .....	4
Maine, .....	2
Denmark, .....	1
Italy, .....	1
Belgium, .....	1
Guadaloupe, .....	1
Delaware, .....	1
Corsica, .....	1
Ohio, ....	1
South Carolina, ....	1
Sweden, .....	1
Nova Scotia, .....	1
West Indies, .....	1
Total, .....	289

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11

12

13

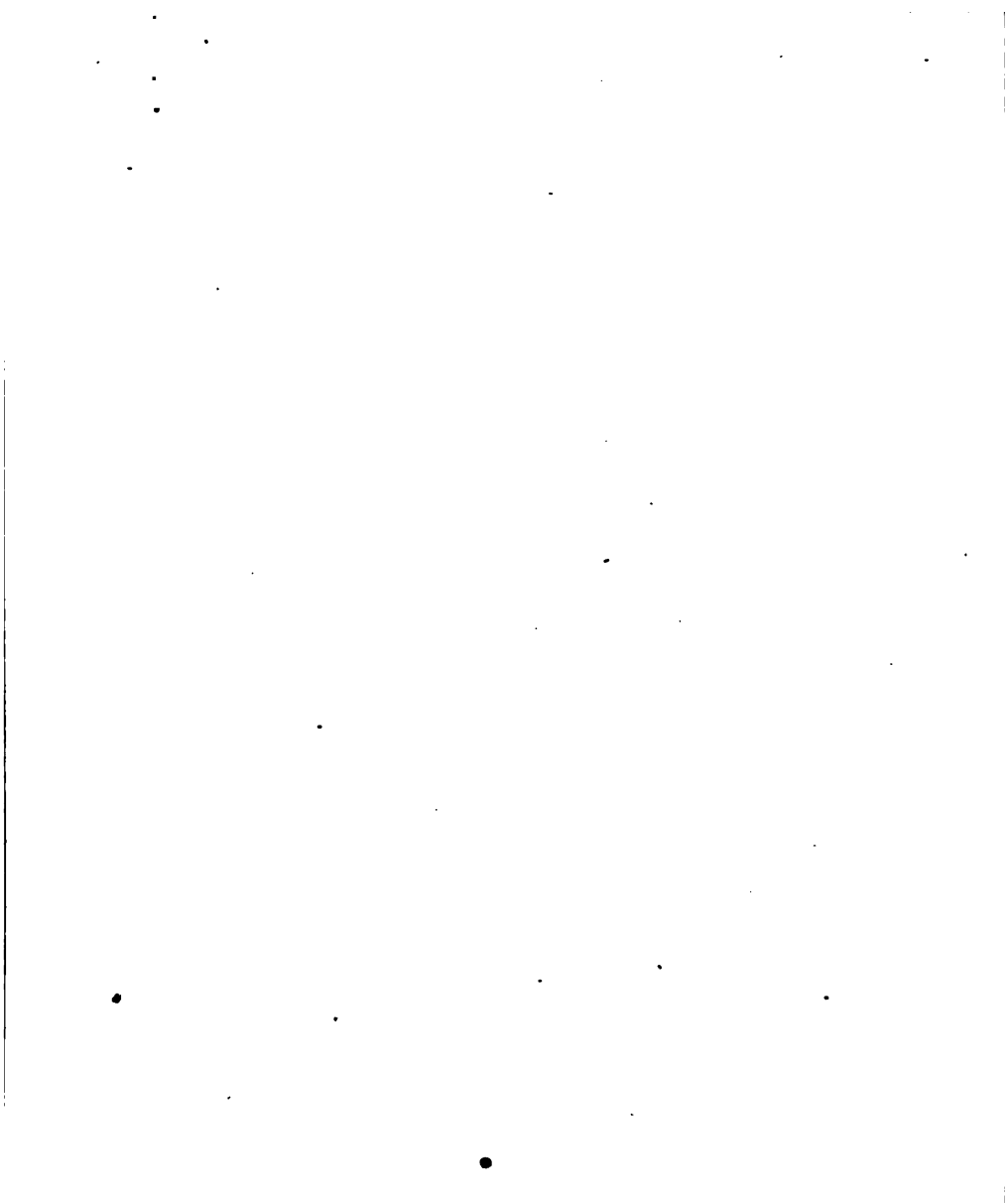
14

15

16

17

18







## -Pleasant, from the

<i>ntenced.</i>	<i>When pardoned.</i>
831, .....	12 February, 1832.
" .....	10 March, "
, 1823, ...	4 May, "
1830, .....	26 April, "
823, .....	5 May, "
832, .....	9 July, "
826, .....	7 May, "
y, 1830, ..	18 Jan. "
" ..	18 August, "
831, . ...	15 " "
832, .....	3 May, "
, 1824, ...	5 " "
" ..	8 Aug. "
829, .....	12 Jan. "
832, .....	5 July, "
" .....	9 " "
829, .....	28 Feb. "
y, 1831, ..	16 March, "
" ..	9 July, "
830, .....	24 Dec. "
1831, .....	10 March, "
" .....	10 October, 1831.
823, .....	28 April, 1832.
830, .....	18 Aug. "
826, .....	7 Sept. "
825, .....	22 December, 1831.
824, .....	3 May, 1832.
821, .....	4 " "
827, .....	16 Aug. "
829, .....	4 Feb. "
1830, .....	10 March, "
823, .....	11 June, "





## (No. 1.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in account with the State of New-York, for the month of October, 1831.

1831.

*DR.*

Sep. 30.	To balance from old account,.....	\$3,366 46
Oct. 31.	Cash derived from the avails of the labor of convicts during this month, including materials, .....	1,107 82
		<hr/> \$4,474 28 <hr/>
Oct. 31.	To balance,.....	\$260 67

1831.

*CR.*

Oct. 31.	By amount of expenditures during this month as per abstract and vouchers rendered herewith, .....	\$4,213 61
	By balance,.....	260 67
		<hr/> \$4,474 28 <hr/>

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of October, 1831.*

*No. of vouchers.*

1831.

Oct. 8.	1	Abraham J. Fort, timber,.....	\$257 02
11.	2	Caleb Putnam, expenses to place convic'n,	3 00
	3	Joseph Van Kleeck, do do	3 00
	4	John Barker, do do	3 00
	5	John Nugent, do do	2 00
	6	Burdett & Ackerman, white lead & brooms,	10 25
18.	7	Wm. H. Brewster, flour,.....	12 00
20.	8	Ferd'd L. Wilsey, combs,.....	14 63
	9	John Nitchie, 100 bibles,.....	70 00
22.	10	Samuel Ireland, exp's to place conviction,	2 00
29.	11	A. K. Seymour, bar tin,.....	1 80
	12	C. Bacon, soap, ....	21 00
31.	13	John Converse, provision,.....	1,884 80
	14	Officers and guard, 1 mo. services,.....	1,929 11
			<hr/> \$4,213 61 <hr/>

## (No. 2.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison, at Mount-Pleasant, in account with the State of New-York, for the month of November, 1832.

1831.

DR.

Oct. 31. To balance from old account,.....	\$260 67
Nov. 30. Cash derived from the labor of the convicts during this month, including materials,...	2,339 65
To balance,.....	2,176 78
	<hr/>
	\$4,677 10

1831.

CR.

Nov. 30. By amount of expenditures during this month, as per abstract and vouchers herewith rendered, .....	4,677 10
	<hr/>
Nov. 30. By balance, .....	\$2,176 78
	<hr/>

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of November, 1831.*

*No. of vouchers.*

1831.

Nov. 2. 15 Hinton & Moore, glass and varnish,.....	\$56 50
16 Amos Dunning, gold leaf,.....	1 00
17 Freeman Campbell, timber,.....	16 41
18 Joseph Palmer, apprehen'g Moses Daleois,	25 00
6. 19 Josiah Converse, salt, feed, &c.,.....	114 88
12. 20 Harmon Eldredge, expenses, &c.,.....	4 25
21 Michael Schenck, do to place conviction, ..	2 00
22 Whiston Washburn, labor with oxen,.....	4 00
23 Phelps & Peck, copper,.....	19 00
24 Wm. H. Brewster, soap,.....	241 25
25 R. K. Foster, letter postage,.....	15 11
15. 26 Whiston Washburn, labor with oxen,....	21 00
27 Charles Moreaus, exp's to place conviction,	2 00
28 Michael Lavier, do do	1 00
18. 29 John Colter, do do	1 00
30 Daniel Smith, do do	1 00
31 Thomas Freeman, do do	1 00
20. 32 Andrew Anderson, do do	2 00
25. 33 Gilbert Sherwood, leather,.....	121 09
29. 34 N. M. Masters, powder,.....	168 75
30. 35 Amerman & Westervelt, provision,.....	1,907 75
36 Officers and guard, 1 mo. services,.....	1,951 11
	<hr/>
	\$4,677 10

## (No. 3.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in account with the State of New-York, for the month of December, 1831.

1831.

*DR.*

Dec. 31, To cash derived from the labor of the convicts during this month, including materials,..... \$5,126 29  
To balance,..... 1,719 16

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\$6,845,47

---

1831.

*CR.*

Nov. 30. By balance from old account,..... \$2,176 78  
Dec. 31. By amount of expenditures this month, as per abstract and vouchers herewith rendered,.. 4,668 69

---

\$6,845 47

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Balance,.....\$1,710 18

---

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of December, 1831.*

*No. of vouchers.*

1831.

Dec. 1. 37 Suydam, Jackson & Co., mittens, calico, and batts,..... \$291 04  
2. 38 David Felt, stationary,..... 11 25  
39 Hubbard & Hasey, vices,..... 28 34  
40 Clark & Treadwell, patent thread,..... 36 38  
5. 41 George Mumerly, milk,..... 33 33  
42 John M. Vinegar, exp's to place conviction, 1 00  
6. 43 Jesse Bishop, 1 pair oxen,..... 94 00  
44 Jotham H. Baldwin, exp's to place con'n,.. 1 00  
7. 45 Jacob De Groat, do do 2 00  
8. 46 James Carpenter, wood,..... 61 25  
47 Benjamin Kipp, wool, ..... 6 30  
12. 48 Jesse Bishop, labor, oxen, and timber,.... 56 97  
14. 49 Thomas W. Ford, timber,..... 75 58  
50 John Francis, exp's to place conviction,.. 2 00  
19. 51 A. K. Seymour, copper,..... 10 16  
21. 52 Charles Postley, Franklin,..... 23 00  
53 Asa Smith, expenses to place conviction,. 3 00  
22. 54 Burdett & Ackerman, grindstones,..... 6 66  
55 John Brown, timber..... 5 00  
24. 56 Adam McKibbon, exp's to place conviction, 3 00  
31. 57 Amerman & Westervelt, provision,..... 1,958 12  
58 Officers and guard, 1 mo. services,..... 1,959 11

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\$4,668 69

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## (No. 4.)

*Monthly account current.*

Robert Wiltse, Agent of the Mount-Pleasant State-Prison, in account with the State of New-York, for the month of January, 1832. *DR.*

Jan. 31. To cash derived from the labor of convicts, du-  
month, including materials,..... \$1,513 86  
To balance,..... 4,826 71  
  
\$6,340 57

1831.

*CR.*

Dec. 31. By balance from old account,..... \$1,719 18  
1832.

Jan. 31. By amount of expenditures this month, as per  
abstract and vouchers herewith rendered,.. 4,621 39  
  
\$6,340 57

Jan. 31. By balance,..... \$4,826 71

## WESTCHESTER COUNTY, ss.

John Sing, Clerk of the State-Prison at Mount-Pleasant, be-  
ing duly sworn, deposeth and saith, that the preceding account is  
correct and true according to the best of his knowledge and belief.

*Monthly abstract of expenditures by Robert Wiltse, Agent of the  
State-Prison at Mount-Pleasant, for the month of January, 1832.*

*No. of vouchers.*

1832.

Jan.	2.	59	Thomas Baily, lumber,.....	\$70 75
	3.	60	Wm. H. Brewster, grindstones,.....	4 84
	4.	61	Jesse Bishop, do .....	20 93
	9.	62	Wm. H. Brewster, freight,.....	238 66
		63	Josiah Stokes, spelter and copper,.....	86 98
		64	Wm. Nicholl, thread,.....	2 60
		65	R. K. Foster, postage,.....	18 98
		66	A. Dunning, brushes, needles, &c.,.....	6 65
		67	J. Dickerson, bible,.....	2 50
	12.	68	C. Bacon, medicine,.....	2 50
		69	A. Heartt, freight,.....	8 87
		70	C. Roscoe, printing,.....	4 87
		71	Charles Gerow, exp's to place conviction,	3 00
		72	Benj. L. Schoonmaker, do do	3 00
	14.	73	William Delmarter, do do	3 00
	16.	74	James De Laney, do do	2 00
		75	Jonathan Tayler, do do	2 00

Carried forward.....\$

Brought forward,.....\$

*No. of vouchers.*

1832.

Jan. 18.	76	Thomas W. Ellis, exp's to place conviction,	\$3 00
	77	John Thomas, do do	2 00
	78	William Sloan, do do	2 00
	79	James Turner, do do	2 00
	80	D. & J. Bailey, medicine. paint, oil, &c.,..	145 15
	81	Abraham Bloodgood, pursuing escaped convict,.....	3 00
24.	82	Cornelius Hill, exp's to place conviction,..	2 00
26.	83	Thomas Madison, do do	3 00
29.	84	Thomas J. W. Jones, do do	3 00
31.	85	Agent, clerk, and keepers, one month's services,.....	1,959 11
	86	Westervelt & Amerman, 1 mo. provision,..	2,015 00
			<u>\$4,621 39</u>

## (No. 5.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.

*DR.*

Feb. 29.	To cash derived from the labor of convicts during this month, including materials,.....	\$4,048 68
	To balance,.....	5,823 34
		<u>\$9,872 02</u>

1832,

*CR.*

Jan. 31.	By balance,.....	\$4,826 71
Feb. 29.	By amount of expenditures this month, as per abstract and vouchers herewith rendered,..	5,045 31
		<u>\$9,872 02</u>
Balance, .....		\$5,823 34

PRISON, MOUNT-PLEASANT, }  
March 1, 1832. }

*Monthly abstract of expenditures by Robert Wilse, Agent of the State-Prison at Mount-Pleasant, for the month of February, 1832.*

		<i>No. of vouchers.</i>	
Feb.	1.	87	H. & G. Schermerhorn, grindstones and twine, ..... \$13 49
		88	M. & W. Armstrong, leather and thread, ..... 90 62
	2.	89	David Felt, stationary, ..... 12 13
		90	Hall, Scott & Co., needles, ..... 5 63
	6.	91	John Paris, exp's to place conviction, .... 3 00
		92	John Dewey, do do do 3 00
		93	J. De La Montagnie, do do 3 00
		94	Jno. P. Quackenboss, do do 3 00
		95	Henry Boruck, do do 3 00
		96	B. Brewster, freight, ..... 30 00
	8.	97	Henry Stogdill, leather, ..... 240 00
		98	Green & Lambert, fresh meat & tallow, .. 47 49
		99	Joseph Jourdan, exp's to place conviction, 3 00
	7.	100	J. G. Pierson & Brothers, nails and iron, 262 96
	9.	101	J. C. Arthur, iron, ..... 15 70
		102	Gilbert Sherwood, leather, ..... 108 00
		103	John Agate, bricks, ..... 5 62
	11.	104	Mott & Clapp, sheep skins, ..... 26 50
		105	Jesse Bishop, ox feed, &c., ..... 67 56
	12.	106	Richard Ball, exp's to place conviction, .. 3 00
		107	John Owen, do do 3 00
		108	C. Bacon, soap, ..... 30 00
	14.	109	Pero Heavin, exp's to place conviction, .. 3 00
		110	John Williams, do do 3 00
		111	N. & L. Finch, tea lead, ..... 1 20
		112	N. Finch, freight, ..... 1 00
	15.	113	Joshua Lake, exp's to place conviction, .. 3 00
	17.	114	Adam Fowler, do do 3 00
		115	George Ferris, do do 3 00
		116	Jacob Myers, do do 3 00
	22.	117	Pliny Daniels, fulling cloth, ..... 127 63
	24.	118	William Nicoll, muslin, ..... 8 15
		119	David Hitchcock, freight, ..... 19 35
	25.	120	William Steers, cartage, ..... 50
	26.	121	Apollos Hewlett, exp's to place conviction, 3 00
	29.	122	Agent, clerk, and keepers, pay roll, .... 1,788 28
		123	Amerman & Westervelt, 1 mo. provision, 1,914 25
		124	Wm. H. Brewster, 2 brls. flour, ..... 14 50
		125	Jed'h Chapman, freight, ..... 10 00
		126	Henry Stogdill, leather, ..... 166 85
			<hr/> \$5,046 31 <hr/>

## (No. 6.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in account with the State of New-York.

1832.

*DR.*

March 31. To amount drafts on Treasurer, 8th and 13th instant, \$5,000 each,.....	\$10,000 00
To cash derived from labor of convicts this month,.....	35 00
To balance,.....	5,363 97
	<hr/>
	\$15,398 97

1832,

*CR.*

Feb. 29. By balance,.....	\$5,823 34
March 31. By amount of expenditures this month, as per abstract and vouchers herewith rendered,.....	9,575 63
	<hr/>
	\$15,398 97

Balance, ..... \$5,363 97

WESTCHESTER COUNTY, ss.

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, being duly sworn, deposeth and saith, that the preceding account is correct and true in every respect, according to the best of his knowledge and belief. And further saith not.

PRISON, MOUNT-PLEASANT, }  
April, 1, 1832. }

Subscribed and sworn this  
day of April, 1832, before me,

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of March, 1832.*

*No. of vouchers.*

1832.

March 2. 127 Hubbard & Casey, vices,.....	\$30 00
4. 128 Ira Thomas, exp's to place conviction,...	3 00
129 J. Sing, expenses to Schenectady,.....	9 50
10. 130 Alexander C. Baker, exp's to place conviction,.....	3 00
131 John Newell, exp's to place conviction, ..	3 00
132 John Waldradt do do	3 00
11. 133 Edward Vinton, 11 days assistant keeper,	15 97
13. 134 George Waterman ex. to place conv'n..	2 00
135 Plato Green, do do	2 00
136 Isaiah Fields, do do	2 00

Carried forward.....\$

[Senate, No. 27.]



Brought forward,.....\$

*No. of vouchers.*

1832.

March 14.	137	John Van Orden, ex. to place conv'n,..	2	00
13.	138	Hudson & D. Canal Co., coal,.....	2,576	25
	139	M. & W. Armstrong, shoe thread,.....	60	48
	140	Smith W. Anderson, steel, &c.,.....	854	33
	141	Banor & Pride, sperm oil,.....	328	83
12.	142	Tounele & Hall, wool,.....	331	75
13.	143	J. & S. Campbell, stationary,.....	19	25
12.	144	Tounele & Hall, wool,.....	631	10
15.	145	Ephraim Thomas, ex. to place convic'n,	2	00
	146	Henry Hicks, do do	2	00
19.	147	Richard Annins, cartage,.....	25	
	148	William Hughes, ex. to place conviction,	3	00
15.	149	David Felt, stationary, .....	6	50
	150	Boorman & Johnson, steel,.....	10	00
12.	151	Boorman, Johnson & Co., do.,.....	48	35
16.	152	John C. Morrison, medicines, &c.,.....	5	85
	153	John L. Labah & Son, grindstones,.....	24	75
	154	A. K. Seymour, copper,.....	41	22
21.	155	Cyrus Downs, exp's to place conviction,	3	00
	156	Nicholas Hardendorff, do do	3	00
22.	157	Albert P. Wilson, do do	3	00
23.	158	Peter Pemberton, do do	3	00
24.	159	Joseph Farryall, do do	3	00
	160	William H. Brewster, soap,.....	61	68
	161	Galloway & Martin, rope, &c.,.....	42	51
26.	162	Jas. & Geo. Brooks & Co., leather,.....	248	26
28.	163	Jesse Bishop, feed,.....	64	06
31.	164	Amerman & Westervelt, 32,550 rations,	2,115	75
	165	Agent, clerk, &c., 1 mo. services,.....	1,951	29
	166	Nathaniel Purdy, leather,.....	54	00
	167	Henry Worrall, moulding sand,.....	2	50
			<b>\$9,575</b>	<b>63</b>

(No. 7.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.

*DR.*

April 5.	To amount of drafts on Treasurer, of date,..	\$5,000	00
30.	" " derived from labor of convicts,		
	this month,.....	2,788	75
	To balance,.....	3,027	69

**\$10,816 44**

1832.

CR.

March 31.	By balance, .....	\$5,363 97
April 30.	By amount of expenditures during this month as per abstract and vouchers rendered here- with, .....	5,452 47
		<hr/> \$10,816 44 <hr/>

By balance,..... \$3,027 69

PRISON, MOUNT-PLEASANT, }  
May 1, 1832. }

*Monthly abstract of expenditures by Robert Wiltse, Agent of the  
State-Prison at Mount-Pleasant, for the month of April, 1832.*

*No. of vouchers.*

1832.

April 3.	168	Stogdill & Mott, pincers, awls, &c.,....	\$24 25
	5.	169 A. L. Ackerman, 1 gal. oil,.....	1 25
	10.	170 Sing-Sing post-office, letter postage,....	20 53
	16.	171 William Van Dalson, ex. to place conv'n,	2 00
	17.	172 Wm. H. Simpson, do do	1 00
		173 Stephen R. Thorne, do do	1 00
		174 John Henry, do do	1 00
		175 William Fitzgerald, do do	1 00
	19.	176 Terence O'Connell, do do	2 00
		177 William Cole, do do	2 00
		178 John Johnson, do do	2 00
	14.	179 Luther B. Evans, 1 gallon varnish,.....	2 00
	21.	180 Zachariah F. Weldon, ex. to place con.,	2 00
		181 Richard Van Steenburgh, do do	2 00
	23.	182 John Brown, 1 load hickory,.....	3 00
	25.	183 John Hexley, ex. to place conviction,...	3 00
		184 John Benson, old copper,.....	187 50
		185 Arch'd Craig, protesting draft on Carroll & Co.,.....	5 00
		186 David McCord, pepperage for rollers,..	5 00
		187 Tallmadge & Van Pelt, hospital stores,..	32 16
		188 McFarlans & Ayers, iron, steel, &c.,...	588 84
		189 Jesse Bishop, ox feed, .....	62 81
30.	190	Amerman & Westervelt, 1 mo. provision,	2,047 50
		191 Agent, clerk, and keepers, 1 mo. services,	2,003 29
		192 McFarlans & Ayres, iron, steel, &c.,....	372 46
		193 R. Wiltse, sundry expenses,.....	77 88
			<hr/> \$5,452 47 <hr/>

## (No. 8.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.

DR.

May 1.	To cash for draft on Treasurer, of date,.....	\$5,000 00
31.	" derived from labor of convicts, this month,.....	1,782 82
	To balance,.....	4,285 96
		<hr/> \$11,068 78 <hr/>

1832.

CR.

April 30.	By balance,.....	\$3,027 69
May 31.	By amount of expenditures during this month, as per abstract and vouchers herewith ren- dered, .....	8,041 09
		<hr/> \$11,068 78 <hr/>

May 31. By balance, ..... \$4,285 96

*Monthly abstract of expenditures by Robert Wiltse, Agent of the  
State-Prison at Mount-Pleasant, for the month of May, 1832.*

*No. of vouchers.*

1832.

May	1.	194	Robert Graham, ex. to place conviction,	\$1 00
	3.	195	Thomas Smith, do do	3 00
	4.	196	John Sullivan, do do	3 00
		197	Jacob Borton, do do	3 00
	5.	198	Joseph Boujett, do do	3 00
		199	Samuel Johnson, do do	3 00
	7.	200	James Carl, do do	3 00
		201	William Kelly, do do	3 90
		202	Henry Harris, timber,.....	9 90
	5.	203	Henry Worrall, pipe, cart boxes,.....	29 79
	3.	204	Hubbard & Halsey, 2 vices,.....	10 47
	7.	205	John Rooney, ex. to place conviction,..	3 00
		206	Wm. H. Brewster, 6 casks lime, &c.,...	7 00
		207	Levi Lewis, agent, &c., transporting 60 convicts, &c., .....	393 70
	14.	208	John Blakely, ex. to place conviction,...	1 00
	15.	209	Thomas Eager, flour and cartage,.....	7 25
		210	James Johnson, ex. to place conviction,	1 00
		211	Charles Cozzens, do do	1 00
		212	James G. Agnew, do do	1 00
				<hr/>

Carried forward, ..... \$

Brought forward,.....\$

*No. of vouchers.*

1832.			
May 15.	213	Wm. Henry Jackson, ex. to place con'n,	1 00
	214	James Ryerson, do do	1 00
	215	Wm. G. Munt, 1 bush. calcined plaster,	75
17.	216	John Allington, ex. to place conviction,.	1 00
	217	William Reed, do do	1 00
	218	Etiler Jacox, do do	1 00
18.	219	Jas. & Geo. Brooks & Co., leather, ....	117 67
	220	Green & Wetmore, iron, steel, &c.,....	521 17
21.	221	Lewis Hobby, ex. to place conviction,..	1 00
	222	Jack Adams, do do	1 00
25.	223	Gilbert Van Tuyl & Co., timber,.....	507 66
30.	224	Wm. Hazard, ex. to place conviction,...	2 00
31.	225	Agent, clerk, guard, &c., 1 mo. services,	1,953 29
	226	Green & Lambert, meat for hospital,....	27 67
	227	D. Butcher, 14brls. soap,.....	19 25
	228	John Targee, support female convicts,..	2,288 85
	229	Amerman & Westervelt, 1 mo. provision,	2,096 25
	230	M. & W. Armstrong, shoe thread, &c.,..	12 42
			<u>\$8,041 09</u>

## (No. 9.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.

*DR.*

June 1.	To draft on Treasurer, of date,.....	5,000 00
30.	" cash derived from labor of convicts, this month,.....	8,692 46
		<u>\$13,692 46</u>

June 30. To balance brought down,..... \$2,894 92

1832.

*CR.*

May 31.	By balance from old account,.....	\$4,285 96
June 30.	By amount of expenditures this month,.....	6,511 58
	By balance charged above,.....	2,894 92
		<u>\$13,692 46</u>

PRISON, MOUNT-PLEASANT, }  
June 30, 1832. }

ROB. WILTSE, *Agent.*

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of June, 1832.*

1832.

		<i>No. of vouchers.</i>	
June	1.	231	A. & B. Stagg, salt,..... \$12 25
	4.	232	Charles Corbett, ex. to place conviction, 2 00
		233	Charles S. Young, do do 3 00
		234	Smith & Loomis, powder,..... 490 00
		235	Oliver Ives, do ..... 84 00
	6.	236	Tuttle Dayton, freight coping,..... 100 00
	7.	237	William Allen, ex. to place conviction,.. 1 00
		238	Henry Stogdill, heel balls,..... 7 00
	13.	239	Sheldon Whitney, ex. to place conviction, 3 00
		240	Mathew Lafein, powder,..... 504 00
		241	Eliphalet Luddington, ex. to place con'n, 3 00
	14.	242	John Faulkner, do do 1 00
		243	Thomas Graves, do do 1 00
		244	Thomas Cummiell, do do 1 00
		245	Edward Hutton, do do 1 00
		246	William Smith, do do 1 00
	15.	247	Richard Keese, do do 3 00
		248	Isaac Groat, do do 3 00
		249	Alexander Wilson, do do 3 00
		250	Edward Priestly, wool,..... 14 35
	16.	251	John Gilbert, ex. to place conviction,... 3 00
		252	Martin Cole, do do 2 00
		253	John Davis, do do 3 00
		254	David Ostram, do do 3 00
		225	John Radcliff, do do 3 00
		256	Frederick F. Mabec, do do 1 00
		257	Alanson Billings, do do 3 00
	19.	258	Amos Church, do do 1 00
		259	James Wilkins. do do 1 00
		260	Harmon Jones, do do 1 00
		261	Armistead Robinson, do do 1 00
		262	James Ruth, do do 1 00
		263	William Harmor, do do 3 00
	20.	264	Charles Taylor, do do 3 00
	22.	265	H. & G. S. Schermerhorn, grindstones, &c., 34 46
	25.	266	Jesse Bishop, timber, hay, &c.,..... 260 56
	28.	267	John Chapman, ex. to place conviction, 2 00
		268	Philip Woolley, do do 2 00
		269	J. Hunt, japan varnish,..... 5 00
		270	Tounelle & Hall, wool,..... 1,086 17
	30.	271	Caleb Bacon, soap,..... 36 00
		272	Wm. H. Brewster, flour,..... 13 00
		273	Amerman & Westervelt, provision,..... 1,852 56
		274	Agent, clerk, and officers; 1 mo. services, 1,953 29

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\$6,511 58

## (No. 10.)

*Monthly account current.*

Robert Wiltse, Agent of the Mount-Pleasant State-Prison, in-account with the State of New-York.

1832.

*DR.*

June 30. To balance from old account,..... \$2,894 92

July 31. Cash derived from the labor of the convicts  
during this month,..... 4,114 92

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\$7,009 84

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July 31. To balance brought down,..... \$2,219 21

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1832.

*CR.*

July 31. By amount of expenditures this month, as per  
abstract and vouchers herewith rendered,.. \$4,790 63

By balance charged above,..... 2,119 21

---

\$7,009 84

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ROB. WILTSE, *Agent.*

PRISON, MOUNT-PLEASANT, }  
July 31, 1832. }

*Monthly abstract of expenditures by Robert Wiltse, Agent of the  
State-Prison at Mount-Pleasant, for the month of July, 1832.*

*No. of vouchers.*

1832.

July	3.	275	Harry Daker, ex. to place conviction,..	2	00
	5.	276	Isaac P. Gavitt, do do	4	00
	7.	277	William Dargue, copper, &c.,.....	90	22
		278	John Benson, do .....	47	00
	8.	279	Thomas Phelan, ex. to place conviction,.	2	00
	9.	280	James M. Carter, do do	2	00
		281	William M. Green, do do	3	00
		282	H. G. & G. Schermerhorn, grindst's, &c.,	21	91
		283	Stogdill & Mott, shoe thread,.....	4	50
		284	John Hearthy, ex. to place conviction,..	3	00
		285	D. & J. Baily, cholera medicine, &c.,...	148	08
	13.	286	Green & Wetmore, iron and steel, &c.,	596	21
	14.	287	Whiston Washburn, labor at carting,...	13	50
		288	John Thompson, ex. to place conviction,	3	00
		289	Ira Wilkes, do do	3	00
		290	Thomas Costello, do do	3	00
		291	W. G. Munt, 1 bush. plaster, .....	75	
	17.	292	Peter Williams, ex. to place conviction,	2	00
		293	Samuel Lowerre, do do	2	00

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Carried forward,.....\$

Brought forward,.....\$

*No. of vouchers.*

1832.			
July 17.	294	James Gallagher, ex. to place conviction,	2 00
	295	George Pine, do do	2 00
19.	296	William Jones, do do	2 00
	297	John Kingsley, do do	2 00
	298	Rich'd Hughes, do do	2 00
	299	John Felsh, do do	2 00
	300	George Tibbets, do do	2 00
	301	Hutchinson Howard, timber,.....	80 04
25.	302	George Freman, stomach pump,.....	24 00
31.	303	Wm. H. Brewster, hops,.....	5 00
	304	Amerman & Westervelt, provision,.....	1,777 75
	305	Agent, clerk, and officers, 1 mo. services,	1,938 67
			<u>\$4,790 63</u>

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.

*DR.*

July 31.	To balance from old account,.....	\$2,219 21
Aug. 31.	To amount derived from the labor of convicts this month,.....	2,844 00
		<u>\$5,063 21</u>
Aug. 31.	To balance brought down,.....	<u>\$458 51</u>

1832.

*CR.*

Aug. 31.	By amount of expenditures this month, 'as per abstract and vouchers herewith rendered,..	4,604 70
	Balance charged below,.....	458 51
		<u>\$5,063 21</u>

PRISON, MOUNT-PLEASANT, }  
August 31, 1832. }  
Agent.

*Monthly abstract of expenditures by Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, for the month of August, 1832.*

*No. of vouchers.*

1832.

Aug. 8.	306	William Johnson, ex. to place conviction,	\$5 00
15.	307	John Boyd, do do	3 00
	308	James Forshay, do do	3 00
	309	James Bachelor, do do	3 00
	310	Peter Van Tassel, do do	3 00
	311	Cornelius McKenzie, do do	1 00
	312	John L. Collyer, bread,.....	15 00
	313	Wm. H. Hobart, M. D., services in cholera hospitals,.....	130 00
16.	314	Rob't H. Smith, ex. to place conviction,	3 00
	315	Jacob Lulliford, do do	1 00
	316	Robert H. Moore do do	3 00
	317	Calvin King, do do	2 00
	318	Dobson Middleton, do do	2 00
19.	319	Jason Teller, do do	3 00
	320	John Ricker, do do	2 00
22.	321	John L. Collyer, bread,.....	6 00
23.	322	Ed. W. Voris, M. D., services in cholera hospital, .....	300 00
	323	R. K. Foster, P. M., 1 qr. letter postage,	18 59
27.	324	J. W. Pitkin, copper,.....	37 25
28.	325	Ferdin'd L. Willsey, combs,.....	9 75
31.	326	J. W. & J. Westervelt, flour,.....	107 38
	327	Amerman & Westervelt, 1 mo. provision,	1,712 75
	328	Cholera guard, 1 mo. services,.....	114 49
	329	Green & Lambert, meat for hospital,....	12 17
	330	Agent, clerk, &c., 1 mo. services,.....	1,963 57
	331	Jesse Bishop, sundry timber,.....	62 25
	332	H. G. Lawrence, ser. in cholera hospital,	50 00
	333	Oliver Washburn, cartage,.....	13 62
	334	D. Butcher, soap,.....	17 88
			<hr/>
			\$4,604 70
			<hr/>



## (No. 12.)

*Monthly account current.*

Robert Wiltse, Agent of the State-Prison at Mount-Pleasant, in  
account with the State of New-York.

1832.	<i>DR.</i>	
Aug. 31.	To balance from old account,.....	\$458 51
Sep. 30.	To amount derived from the labor of convicts this month,.....	4,640 45
	“ treasury,.....	5,000 00
		<hr/> \$10,098 96

Sep. 30. To balance brought down,..... \$4,249 32

1832.	<i>CR.</i>	
Sep. 30.	By amount of expenditures this month, as per abstract and vouchers rendered,.....	\$5,849 64
	By balance charged above,.....	4,249 32
		<hr/> \$10,098 96

PRISON, MOUNT-PLEASANT, }  
September 30, 1832. }

*Monthly abstract of expenditures by Robert Wiltse, Agent of the  
State-Prison at Mount-Pleasant, for the month of September,  
1832.*

	<i>No. of vouchers.</i>		
Sept.	4. 335	Galloway & Martin, tar and pitch,.....	\$6 25
	7. 336	Isaac Rice, expenses to place conviction,	3 00
		337 Adam Cristley, do do	3 00
	5. 338	Daniel Hubbard, do do	2 00
		339 Peter B. Lynch, flour,.....	13 50
	6. 340	Benjamin Brewster, freight,.....	450 00
	11. 341	Wm. Nicoll, flour,...	6 75
		342 D. & J. Baily, tacks, nails, &c.,.....	36 02
		343 D. & J. Baily, medicine, &c.,.....	509 36
	14. 344	William Hunt, apprehending escaped con- vict,.....	10 00
		345 Benj'n Van Ness, ex. to place conviction,	3 00
		346 Davis Hayes, do do	3 00
	15. 347	Samuel Doty, do do	1 00
		348 John McGonagle, do do	2 00
	17. 349	Cornelius Broderick, do do	2 00
	18. 350	James Ryan, do do	1 00

Carried forward,.....\$

Brought forward,.....\$

*No. of vouchers.*

1832.

Sept. 18.	351	Thomas McClosky, ex. to place convict'n,	1 00
20.	352	William Smalley. do do	1 00
	353	John Wurts, Pres't D. & H. C. C., coal,	535 80
	354	G. Sherwood, leather,.....	92 50
	355	N. L. & S. L. Mott, do,.....	12 00
	356	Amos Dunning, bed-pans, &c.,.....	2 41
	357	John Green, timber,.....	155 86
22.	358	Wm. H. Brewster, soap,.....	21 57
	359	Galloway & Martin, rope,.....	13 33
28.	360	William Graham, ex. to place conviction,	2 00
	361	William Batholf, do do	2 00
30.	362	Amerman & Westervelt, provisions,....	1,657 50
	363	Agent, clerk, & keepers, 1 mo. services,	1,955 79
	364	Mathew Laffin, powder,.....	210 00
	365	A. J. Prime, services in cholera hospital,	145 00

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**\$5,849 64**


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100

101

102

**No. 28.**

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**IN SENATE,**

**January 17, 1833.**

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**REPORT**

**Of the judiciary committee, on the bill concerning  
the payment of Chaplains.**

Mr. Beardsley, from the committee on the judiciary, to which was referred the engrossed bill from the Assembly, entitled "An act concerning the payment of chaplains,"

**REPORTED:**

That they have examined the bill referred to them, and find its details and references correct to attain the object sought for.

The committee deem the question, as to the expediency of repealing that part of the Revised Statutes to which the bill refers, as one that may be submitted to the unbiassed judgment of the Senate.

They therefore report the bill for the action of the Senate without any expression on the part of the committee as to the expediency or inexpediency of its becoming a law.

**LEVI BEARDSLEY, CH'N.**



**No. 29.**

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**IN SENATE,**

**January 26, 1833.**

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**REPORT**

**Of the Canal Commissioners, on the petition of Augustus Porter and others.**

The Canal Commissioners, to whom was referred by the Honorable the Senate, the petition of Augustus Porter and others, with the following resolution,

*“Resolved, That the petition of Augustus Porter and others, be referred to the Canal Commissioners to examine and report, whether the proposed canal between Niagara falls and the Erie canal, can be granted with perfect safety to the interests of the State.”*

**RESPECTFULLY REPORT:**

The Canal Commissioners on the 13th day of February, 1832, made a report to the Honorable the Assembly, on the petition of Augustus Porter and others, which will be found in the Assembly Documents of that year, No. 113. Upon a re-examination of the subject they have come to the same conclusion expressed in that report. Perhaps it may be proper for them to state, that the act referred to in the latter part of that report, will expire on the 11th day of April next, in case the company thereby incorporated shall neglect or fail to make a navigable canal, from the Niagara river near the mouth of Gill creek, to the top of the mountain near Lewiston, before that time.

JONAS EARLL, Jr.  
WM. C. BOUCK,  
S. YOUNG.

*January 25, 1833.*

[Senate, No. 29.]



**No. 30.**

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**IN SENATE,**

**January 26, 1833.**

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**REPORT**

**Of the Canal Board, in relation to fences and bridges,  
in obedience to a resolution of the Senate.**

The Canal Board, in obedience to a resolution of the Honorable the Senate, passed April 25th, 1832.

**REPORT:**

On a call from the Honorable the Assembly, the Canal Commissioners, on the 25th of March, 1830, submitted a report in relation to fences and bridges, which will be found in vol. 4, of the Legislative Documents, No. 334. This report contains all the information in their possession, in relation to the subject referred to the Canal Board.

It may however, be proper to make a few suggestions with respect to the 4th and 5th paragraphs of the said report. The report states that "it was with a knowledge of this determination that the Canal Commissioners assessed the damages on the canals when they constituted the Board of Appraisers, and it is believed that the opinion of the Canal Commissioners in reference to fences and bridges was understood by the present Canal Appraisers when they commenced on the duties of their appointment; but no specific allowance has been made for the future repair of fences, excepting on the new improvement of the Champlain Canal, where fifty cents per rod was added to the amount of damages to repair and rebuild the fences on the towing path side of the canal."

As claims for damages for repairing fences had begun to be made, this specific allowance was probably intended to obviate such claims on that part of the canal. And it would have produced greater



certainty, if the appraisers had, in all cases, from the beginning, made a specific allowance for the future repair of fences, and entered the same in their awards. The law, however, constituted an appraisement a bar to all future claims,

The appraisement of damages between Waterford and Fort-Miller, was made in the early part of 1826. By a reference to the vouchers in the Comptroller's office, it appears, that a repair of fences, made in the summer of that year, was paid for by the State. One of the appraisers, in an affidavit, states that the repair of fences, did not, as far as it respects himself, enter into the award of damages, on this section of the canal,

The destruction of fences, soon after they were built, by boatmen and others, produced the enactment of laws by the Legislature, containing severe penalties; but notwithstanding these laws, depredations upon them became so prevalent and so difficult to detect, being often committed in the night, that the Canal Commissioners, for this cause, as well as for the reasons stated in their report, early came to the determination of abandoning their further repair.

These depredations were more frequent and extensive on the Erie than on the Champlain canal; probably because on the former a much greater number of persons were engaged in transportation. And it is possible, that the acting Commissioner, having charge of the Champlain canal, did entertain the hope and make the effort to maintain its fences, after the period when that hope had become extinct as to the Erie canal. This is possible, although the Commissioner, after such a lapse of time, amid the pressure of the multifarious concerns connected with the canals, is not now able to bring it to his recollection.

Respectfully submitted.

S. YOUNG,  
WM. C. BOUCK,  
JONAS EARLL, JR.,  
*Canal Commissioners,*  
A. C. FLAGG,  
GREENE C. BRONSON,  
JOHN A. DIX,  
A. KEYSER.

*Commissioners of the Canal Fund.*

January 25th, 1833.

**No. 31.**

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**IN SENATE,**

**January 28, 1833.**

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**REPORT**

**Of the select committee, on the petition of Isaac Jackson, Sheriff of Montgomery county.**

Mr. Sherman, from the standing committee on claims, to whom was referred the petition of Isaac Jackson, sheriff of the county of Montgomery.

**REPORTED:**

That the said petitioner in the discharge of his duty as sheriff, in the month of May last, conveyed two convicts, George Scouton and John Sweetman from the village of Johnstown, in the county of Montgomery, to the State Prison at Mount-Pleasant, and from said prison back again to the village of Johnstown. For this service and expenses the petitioner has received no compensation, and now asks the Legislature for a law granting him the same. It appears that the existing provisions of the Statute, providing compensation for the transportation of convicts, do not embrace his case, the circumstance of which are briefly these:

The two convicts above named, were tried at the court of oyer and terminer in and for the county of Montgomery, in May last, and on the 25th of that month, sentenced to three years confinement in the state prison at Sing-Sing, and as was then supposed, in pursuance of an existing law, under which the court had been in the practice of sending convicts to said prison. But at that time the law had been repealed, and the act of the Legislature of last session, relating to state prisons, passed 25th April, 1832, was in force, and took effect on the 16th May following, a few days before the sentence of the said convicts; but which was unknown to the judges of said court. The fourth section of that act directs

[Senate, No. 31.]

that the convicts of the fourth senate district shall be confined in the state prison at Auburn.

It appeared that this act had not come to the knowledge of the judges, when the prisoners was sentenced, nor was the repeal of the former law known to them. The sheriff took charge of the convicts and conveyed them to the prison at Mount Pleasant, when the keeper, who had just received the said law of last session, refused in consequence thereof to receive them. The petitioner conveyed the said convicts back to Johnstown, and from thence to the Auburn prison.

On application being made to the Comptroller for compensation, it appeared that he was not authorised to audit any account for transporting a convict to prison, but on the production of the certificate of the keeper that the prisoner had been received. As this could not be complied with in the present case, and as the law makes no provision for paying the expenses of bringing a convict back from the prison, the committee are satisfied that the petitioner has no other remedy than by an application to the Legislature. They are therefore of opinion, that the prayer of the petitioner is just, and that he ought to receive the same compensation for going to, and returning from the said prison, as is provided by law for sheriffs in ordinary cases of transporting convicts.

The committee have prepared a bill, and ask for leave to introduce the same.

**No. 32.**

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**IN SENATE,**

**January 28, 1833.**

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**REPORT**

**Of the committee on State Prisons.**

Mr. Macdonald, from the committee on State Prisons,

**REPORTED:**

That they have had under consideration the subject of erecting a separate prison for the female convicts of this State.

The propriety of this measure has been so often recommended to the Legislature in the annual messages of the Executive, in the reports of the Inspectors of our prisons, and in those of the different committees of the Legislature, to whom this subject has been referred, that it would appear almost superfluous for this committee to attempt to add one word in favor of its adoption. Agreeing, however, most fully in the opinions cited, the present committee feel it to be their duty, to call the attention of the Senate again to this subject, as one that claims their early and favorable action.

It can scarcely be necessary to speak of the deplorable condition of our female State convicts. This will be found fully set forth in the annual reports of our State Prisons for this, and the preceding years. It will be sufficient to say here, that while so much has been done for the improvement of our existing State Prisons, and the government and discipline of our male convicts, nothing has been done, nothing has even been attempted in behalf of the females. They are still confined together, after the worst manner of the old system, with hardly a single effort at discipline, instruction or reformation. Whilst private and public benevolence are constantly searching for objects upon whom to bestow their aid, this class of unfortunate beings seem to have been entirely over-

looked. Their forlorn and neglected situation remains almost an anomaly in our legislation, and in the exertions of general charity.

The proposition of a separate prison for the female convicts of this State, is recommended by several strong considerations.

If it were united to, or located near one of the other prisons, the knowledge of this proximity would be well known to the inmates of both establishments. The employment of the females would probably be connected in some way with that of the prison for males, and might thus present opportunity for attempts to hold communication between them. Even the yard room necessary for air and exercise to the females, would afford perhaps such opportunity. But if the possibility of communication could be entirely guarded against, the very consciousness of their nearness to each other, might affect the discipline, and retard the moral culture of both prisons. Attempts at communication would certainly do this. Probably the greatest danger of this kind to be apprehended, would be from discharged convicts, who might linger around the prison for such purpose.

If the prison for females is connected with one of the other prisons, it would be likely to excite but secondary interest; and might, and in some measure perhaps would, be suffered to languish, in its efforts at improvement, and to support itself; and indeed, in all the respects for which such a prison is desirable.

The expense of a separate establishment, it is believed, would not exceed that of one united with either of the other prisons. No guards would be required for it, and after its erection, no remuneration would be desired by the Board of Inspectors. In either case the females must have separate keepers to take charge of them.—For the services of a matron, and others necessary to the establishment, but comparatively small salaries would be required.

The committee also have no doubt, but that if any thing can be anticipated, (as they confidently believe,) from the efforts of individual benevolence, for the moral improvement of these unfortunate women, that this object may more certainly be expected at a separate prison, and one located in the vicinity of a city.

After some examination and reflection upon the subject, the committee are induced to recommend that the city of Albany or its im-

mediate neighborhood, be fixed upon as the most eligible place for the establishment of a State Prison for females. The situation is decidedly central, for the transportation of this class of convicts, which will thus, in this respect, occasion the least possible expense. It is deemed that the convicts can be as usefully employed, and as cheaply supported at this, as at any other place. And what appears to the committee of no small importance, the management of the institution will be under the view of the public functionaries of the State, and within the yearly supervision of the Legislature.

It appears by the last annual reports of the Auburn and Mount-Pleasant State prisons, which are yet in the hands of the printer, that at the date of those reports, there were confined at Auburn twenty-five and at Bellevue thirty-six female convicts. Those confined at Bellevue, are supported at an expense of one hundred dollars each per annum, which is paid out of the funds of the Mount-Pleasant State prison.

During the prevalence of the cholera, last summer at Bellevue, eight of the female State convicts died, and eleven made their escape amidst the confusion which prevailed there in consequence of that fatal disease. The number of these convicts is therefore smaller now than by the last year's reports of those prisons, being at this time about sixty-one.

From a further consideration of the subject, the committee are induced to believe, that the expense of building the proposed prison will not be as great as has heretofore been apprehended. It seems evident that the erection of one hundred separate cells will be quite sufficient at this time. These may be constructed with much less attention to strength, and consequently much more cheaply than cells for the male convicts. The house for the keeper, and other appurtenances, may also be so simplified in their arrangement and construction, as materially to limit the expenditure. A building of brick will be sufficiently strong in all respects, and will be less expensive than one of stone; and if stone is needed for coping, and for posts, sills and lintels to the doors and windows, it can be conveniently obtained from the Mount-Pleasant State prison. It is proposed also, that the commissioners who may be appointed to construct the prison, shall be authorised, at their discretion, either to erect the same by contract, or to employ, if it shall be for the

interest of the State, the male convicts from one of the other prisons, as was done in the erection of the Mount-Pleasant State prison.

It is proper to say here, that it is understood that the city of Albany will grant to the State, free of expense, sufficient land for the prison and its appurtenances. A Mr. Burrows also, residing at Port Schuyler, who last year offered to the State two acres of land for this object, situated on the banks of the Hudson, between the cities of Albany and Troy, has again repeated the offer. The committee entertain no doubt, but that an eligible site may be obtained without any expense to the State.

The committee deem it unnecessary to add to this report by detailing views, already in the possession of the Senate, amongst the documents of the last, and the preceding years. The chairman of this committee, submitted a report at the last session of the legislature, [Senate Documents of 1832, No. 74,] in which this subject was considered, and some further views given,

The condition of our female convicts is annually proclaimed to the world, in the reports of the Boston Prison Discipline Society, as one of just reproach to us. In the report of that society for 1832, a quotation from the last report of the Auburn State Prison, is headed with these words:—"Disgraceful and unalleviated miseries of the females of this prison." And after a quotation from the last report of the Mount-Pleasant State Prison, expressive of a doubt whether the female convicts could support themselves, the following language is used:—"Why cannot the females support themselves? They do it at Weathersfield, and they do it in Baltimore."

Upon the whole it is due to the character of the State, to the spirit of our public institutions, and to the feelings of the age, that efforts should be immediately made to improve the condition of our female State convicts, and to instruct and reclaim them. It has been satisfactorily ascertained, that under our present system of prison discipline, many male convicts have been reclaimed and restored to society. And may not as salutary results be fairly anticipated from a sex always less hardened, and always more susceptible of virtuous impressions. A contrary opinion, though sometimes advanced, is certainly at war with the whole history of the female character. Let us not suppose that a woman, however debased and degraded, ever becomes thoroughly hardened. Such a

being must be as rare as a monster in the physical world. As men, the children of women, by whom we have been nurtured and sustained, there is no state of degradation or ruin so utterly polluted and vile, to which they may be reduced, but that we are bound by the most sacred duties and affections, to treat them with kindness and courtesy, and to remember their tender and helpless nature.

The committee have prepared a bill which they ask leave to introduce.

ALLAN MACDONALD,  
*Chairman,*





**No. 33.**

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**IN SENATE,**

**January 28, 1833.**

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**OPINION**

**Of the Attorney-General, in relation to the exemption of the real estate of certain corporations from taxation.**

*Albany, January 26, 1833.*

**TO THE PRESIDENT OF THE SENATE:**

**SIR,**

I submit herewith, in pursuance of a resolution of the Senate, an opinion in relation to the exemption of the real estate of certain corporations from taxation.

I am, Sir, with great respect,

Your ob't. serv't.

**GREENE C. BRONSON,**



## REPORT, &c.

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The Attorney-General, in obedience to a resolution of the Senate, requiring "his opinion whether the exemption from taxation granted by the 9th section of title 4th of chapter 13th of the first part of the Revised Statutes, to certain incorporated companies, extends so far as to exempt the lands and real estate of said companies from taxations," respectfully submit the following

### REPORT:

The section referred to is in the following words: "If the president or other proper officer of any incorporated company named in the assessment roll, shall show to the satisfaction of the board of supervisors, at their annual meeting, within two days from the commencement thereof, by the affidavit of such officer, to be filled with the clerk of the board, that such company is not in the receipt of any profits or income, the name of such company shall be stricken out of the assessment roll, and no tax shall be imposed upon it. And the assessment of every monied or stock corporation authorized to make dividends on its capital, from which no such affidavit shall be received, shall be conclusive evidence that such corporation was liable to taxation, and was duly assessed." 1 R. S. 416, S. 9.

The language of this section is broad enough to include the lands and real estate, as well as the capital of incorporated companies; but there is reason to believe that such was not the intention of the Legislature. And the intention of the makers, rather than the letter of a statute, should govern in its construction.

The title of which this section forms a part, relates particularly to a tax on *the capital* of monied or stock corporations; and general words should be restricted in their operation to the particular subject for which the title provides, unless a contrary intention has been plainly manifested.

The first title of the chapter, section 1, declares that "All lands and all personal estate within this State, whether owned by indi-

viduals or corporations, shall be liable to taxation." The second title specifies the place and manner in which the property of individuals and corporate bodies shall be assessed. And the third title provides for the collection of the taxes and the disposition of the moneys collected. Had the Legislature proceeded no farther, there would have been a complete system of taxation in relation to all tangible property; and the lands of incorporated companies would, beyond all doubt, have been subject to assessment.

But experience had shown that the stock owned by individuals in corporate bodies, could not be effectually reached by any general provisions for subjecting all personal property to the payment of taxes. The policy was consequently adopted, of relieving individuals from assessment on account of stock, (title 1, sec. 7; title 2, sec. 15,) and imposing a tax directly on the capital of the corporation. The general provisions of the three first titles, subjecting all real and personal estate to assessment, and directing the manner of levying and collecting the tax, were for the most part applicable as well to corporations as to individuals. But the assessment of the capital of a corporation, required further and special provisions, suited to that particular description of property. Those regulations were consequently reserved for a separate title. The adoption of that policy had nothing to do with the propriety of taxing the real estate owned by corporations: And the fourth title was not designed to interfere with that question, either the one way or the other. Lands are indeed mentioned, but only for the purpose of reducing the assessment on capital, by the amount which had been invested in real estate. Without such a provision, the corporation would in effect, be subject to a double assessment, so far as concerned its real estate. When, therefore, the Legislature in providing for a tax on capital, declare that a corporation shall, under certain circumstances, be exempted from the burden, the exemption should be understood to apply to the tax on capital only; and not be extended to the real estate of the company, which was not the subject in hand, and which had been fully disposed of in the previous titles of the chapter.

A further argument against extending this exemption beyond the capital of a corporation, will be found on recurring to the first title. The first section subjects "all lands" owned by corporations to taxation, "subject to the exemptions hereinafter specified." This specification is made in the fourth section, in which the Le-

gislature evidently intended to include all the exemptions which were to be allowed. And those exemptions do not extend to the real estate of the corporations mentioned in the ninth section of the fourth title.

It may be further remarked in relation to this title, that the first section only subjects to taxation, those corporations "deriving an income or profit from their capital, or otherwise." And the ninth section was not added so much for the purpose of declaring the exemption, which was clearly implied in the first section, as for the purpose of prescribing what proof should be made that the corporation was "not in the receipt of any profits or income." The president or other proper officer of the company was to furnish an affidavit of the fact on which the exemption depended, and the neglect to do so was declared to be conclusive evidence that the corporation was liable to taxation and had been duly assessed.

The Attorney-General is of opinion, that the exemption granted to those monied or stock corporations which are "not in the receipt of any profits or income," applies only to a tax on capital; and does not extend so far as to exempt the lands and real estate of such corporations from taxation.

Respectfully submitted.

GREENE C. BRONSON,

*Attorney-General.*

*January 26, 1833.*



**No. 34.**

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**IN SENATE,**

**January 29, 1833.**

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**REPORT**

**Of the joint committee of the Senate and Assembly, to whom was referred so much of the Governor's message as relates to the communication from the Governor of the State of South Carolina, and the proceedings of the recent Convention of the People of that State.**

The right claimed by the State of South Carolina, to make void the laws of the United States within her territory, is so fully set forth in the Ordinance and Documents before the Legislature, and so well understood, that a precise statement, in this report, of its nature and extent, would be superfluous.

The committee have considered the claim, thus set up, with the attention due to the high respectability of the source from which it emanated, and to the very grave consequences that would unavoidably result from its establishment; and they concur with the Governor in regarding it as a pretension, "not merely unauthorised by the Constitution of the United States, but fatally repugnant to all the objects for which it was framed."

The unfounded nature of the authority asserted by South Carolina, has been so clearly demonstrated in the Proclamation of the President of the United States, which has been published by order of the Legislature, and now on its files; and is so fully confirmed by the concurring opinions of the people of every other State in the Union; that it cannot be necessary that the committee should attempt to shed any additional light upon a subject, in respect to which the argument may, with so much truth, be said to be exhausted.



The duty of the President to exercise the authority vested in him by the Constitution and laws of the United States; to enforce the latter in the State of South Carolina, notwithstanding the unjustifiable attempt on the part of that State to arrest the due execution thereof, is obvious and imperative. And the committee are well satisfied that they represent truly the opinions of the Government and People of the State of New-York, when they reciprocate the assurance given by the Governor, that in the performance of that great and responsible duty, by the exercise of necessary and proper means, the President may count on their support and co-operation.

With this brief statement of the principal matter referred to them, the committee would prefer to leave the subject. Considered only with reference to the present aspect of the affair, it might not be strictly necessary to say more; and they deprecate too sincerely the asperities which usually grow out of diversities of opinion upon doctrinal points, not to be anxious to avoid them as far as it can properly be done. The more especially are they impressed with the propriety of such a course, in reference to the present posture of our public affairs, when the hearts and minds of our citizens should be exclusively directed to the measures best calculated to preserve the happy union of these States in the spirit of affection and brotherly love in which it was established. The committee, however, are too well advised of the desire of the Legislature that their opinion should be distinctly expressed upon some points of deep interest, growing out of the assumptions of right contained in the Ordinance of South Carolina, and the commentary of the President thereon in his recent Proclamation and Message; to feel themselves at liberty to exercise a discretion upon the subject.

In the performance of the duty assigned them, they will submit the dictates of their best judgment, in that spirit of liberality and forbearance which, under any circumstances, it would give them pleasure to cherish, but which, under those that now exist, they consider it a sacred duty to observe.

They believe that this duty cannot be better discharged than by a frank and explicit avowal of the principles which, in their opinion, ought to be applied to the construction of the Constitution of the United States, and to control in that respect the administration of the government established by it. They regard it the more im-

portant to do so, from the attempts which have been made to bring into discredit political principles which the people of this State have so long and so ardently cherished; and upon the maintenance of which, in all their purity, the committee firmly believe the safety of our institutions, and the future welfare of the country, mainly depend. The re-assertion of those principles at a period like the present, when there is reason to fear that they may suffer from misapprehension or misrepresentation, is, in the opinion of the committee, a matter of a paramount obligation.

There is no reasonable ground to doubt, that the great body of the American people are fervently attached to the union of the States, and sincerely desirous that the partition and limitations of power intended to be established by the Federal Constitution, and the republican principle on which it rests, should be preserved inviolate. They have, however, greatly differed as to the most effectual and least exceptionable means, of effecting those objects; and as to the true source of the dangers to which our political system was exposed.

These differences arose in the Convention which framed the Constitution; attended every step of its formation and establishment, and have never ceased to exist. Consolidation on the one hand, tending to monarchy in the head, and on the other, anarchy, consequent upon the insubordination and resistance of the members, were the evils anticipated at its formation, and have ever since been dreaded by the respective parties.

A portion of the people believed, that unless greater vigor was imparted to the Federal arm, it would not be able to sustain itself against the power and influence of the States, and effect the great objects which all desired to accomplish, through the agency of the Federal Government. Others supposed, that the natural tendency of the new system would be towards consolidation; and that unless the powers delegated to the government, thus created, were granted with a sparing hand, scrupulously and vigilantly guarded, and the remaining powers and sovereignty of the States amply protected, there would be reason to apprehend that the revolution of 1776, would be shorn of its honors and its benefits; and the consequence ultimately would be, a return to that form of government which had been thrown off at so much cost. No candid and intelligent observer can have failed to witness the enduring effects of these early differ-

ences, nor be ignorant of the unceasing influence they have exercised on public affairs. On every recurrence to the conflicting principles by which they were generated, we have seen, on the one side, a strong inclination to yield, readily, to that construction, and to that course of measures, which might best serve to strengthen the Federal Government, and extend the sphere of its action; a disposition which at all times, but with various success, has been resisted by those, who entertain different views, as to the best means of securing the efficacy and harmony, and of preserving the equilibrium, and consequent stability, of the entire system. It is not the intention of the committee to enter into a particular consideration of the reasons, by which these conflicting opinions are respectively sustained; nor to advert to them, farther than is necessary to the distinct and intelligible explanation of their own views, upon the subject referred to them.

The committee are advocates for the reserved rights of the States, and a strict construction of the Constitution of the United States. Experience has, they think, fully demonstrated the wisdom of the determination of the Convention to commit to the Federal Government, the management of such concerns only, as appertain to the relations of the States with each other, and with foreign nations, and certain other matters particularly enumerated in the Constitution: leaving the great mass of the business of the people, relating as it does mainly, to their domestic concerns, to the legislation of the States. They were wisely regarded as the safest depositaries of the latter powers. This course was moreover due to the reserved sovereignty of the States, and required by an enlightened estimate of the dangers to the harmony of National Legislation, inseparable from the great diversity in the interests and conditions of the different States. A sincere adherence to this partition of legislation amongst the respective governments, and an honest and inflexible observance of the specifications and restrictions by which it was defined, in the sense designed by the Convention, and as understood by the people in the adoption of the Constitution, are in the best judgment of the committee, indispensably necessary to its preservation.

Time, and the course of events, have solved the great problem that divided the Convention. It is now apparent that the tendency of the system is to encroachments by the federal government upon the reserved rights of the States, rather than to an unwilling-

ness on the part of the States to submit to a full exercise of the powers which were intended to be delegated to the general government. So manifest has this tendency been rendered to the people of the United States, that at several interesting eras in our history, they have been induced by the excesses to which it led, to rise in their strength, and drive from power the agents employed in giving it effect. Such was their course in the memorable civil revolution of 1800: and the same sovereign remedy, upon the same impulse, and, it is hoped, with similar effect, was applied by the people in 1828. Whilst these scenes have passed before our eyes, and stand forth upon the page of our history, for our edification and security, not an instance has occurred in which the resistance of a single State, to the measures of the federal government, has excited sufficient sympathy or countenance from her sister States, to afford cause for a well grounded apprehension of detriment to the Union, by an improper combination amongst its members. Even at this critical emergency in our public affairs, when so much discredit is apprehended to the sacred cause of State rights from the excesses of South Carolina, the confidence of the committee in the correctness of that cause is strengthened by the exemplary conduct of her sister States. When we witness the fervent zeal that pervades them all, and see so many who have the same cause of complaint as South Carolina, and who are equally solicitous for a redress of their grievances, rising superior to local interests, exhibiting to the world the most sublime spectacle of devoted patriotism, and throwing their great moral and physical weight into the scale of the Union, who can doubt that now, as in the late war, the federal arm, in the hour of its greatest peril, will be upheld by the State authorities? The committee are cheered by this animating indication of fidelity, not merely because they see in it the unequivocal evidence of the safety of that Union which they so highly cherish, but on account of the favorable influence which the complete establishment of the principles to which they have avowed their attachment, is calculated to exercise on the future administration of this government. In "the support of the State governments in all their rights as the most competent administrators of our domestic concerns and the surest bulwarks against anti-republican tendencies: and the preservation of the general government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad," the committee recognize the highest duties of every public functionary; and in the encouragement derived from the approving voice of a virtu-

ous and grateful people, the best security for their faithful performance.

Of the deeply interesting questions arising upon the Ordinance and other documents referred to the Committee, there is none of more immediate importance, than the claim which is advanced, that a single State has a right to withdraw herself, against the wishes of her co-States, from the Union, whenever, in her sole judgment, the acts of the Federal Government shall be such as to justify the step.

The Committee cannot approve this doctrine. Anxious as they are to sustain the sovereignty of the States in its full force, they do not feel it to be less their duty, to "preserve," in the language of Mr. Jefferson, "the General Government, in its whole constitutional vigor." There is no conflict of duty between these sentiments; so far from it, that, in the opinion of the committee, no man can be a good citizen, who is disloyal to either. No apprehension too alarming, can be entertained as to the injurious consequences which may result from the principle attempted to be established. The committee have witnessed with deep regret, that an impression has gone abroad, that the assertion of this right was embraced in the proceedings of the Legislatures of Virginia and Kentucky, in 1798 and 1799. Whatever authority there may be for the right of secession, it certainly cannot, in the opinion of the committee, claim any from those proceedings. They took place at a very dark and portentous period in our history; when the encroachments of the Federal Government, and the general temper of the times had filled the hearts of many of our firmest patriots with alarm.

The respect of the people of this State, for those emanations of lofty and devoted patriotism, is at this day as great, and their devotion to the principles they inculcated, as sincere as it was in 1800. And the committee, cannot, as they conceive, render a more acceptable service to the Republic, than by separating them from a doctrine which, however sincerely it may be entertained by others, is rejected by our citizens, with a degree of unanimity, heretofore unknown to political controversy. A very brief exposition of the nature and history of those proceedings, is all that is essential for that purpose. The portions of the Virginia Resolutions, upon the alien and sedition laws, (and there is not, in this

respect, sufficient difference between them and those of Kentucky, to make the separate examination of each necessary) from which such a deduction is attempted to be made, are in the following words:

*"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the Compact, to which the States are parties, as limited by the plain sense and intention of the Instrument constituting that Compact; as no farther valid than they are authorised by the grants enumerated in that Compact; and that, in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said Compact, the States who are parties thereto, have a right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them."*

*"That the good people of this Commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of other States: the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and, that the necessary and proper measures will be taken by each, for co-operating with this State in maintaining unimpaired, the authorities, rights, and liberties reserved in the States respectively, or to the people."*

These resolutions were met by several of the State Legislatures to whom they had been communicated, by counter resolutions, protesting against them with much warmth, chiefly on the ground that the act of a State Legislature, declaring a law of the United States unconstitutional was, in itself, an unconstitutional assumption of authority, and an unwarrantable interference with the exclusive jurisdiction of the Supreme Court of the United States: accompanied, in some instances, with severe denunciations against their disorganizing tendency.

The resolutions of the protesting States were, at a succeeding session of the Virginia Legislature, referred to and reported upon, at large, by a committee of that body. Their report was written

by Mr. MADISON, and led to a re-affirmance, by Virginia, of the unconstitutionality of the alien and sedition laws, and a re-assertion of the doctrines of the original resolutions. This masterly exposition of the true principles of the Constitution, and of the abuses which had been practised under it, contributed more than any event, to that radical change in the public sentiment of the country, which was consummated by the election of Mr. JEFFERSON, and has, from that day to the present, been justly regarded as the genuine text book of political orthodoxy. The committee do, unhesitatingly, and with great satisfaction, embrace this occasion to avow their decided approbation of its doctrines; and they feel, that they would be wanting in gratitude and duty, if they were not to express their conviction of the benefits which have been derived from their influence: of the extent to which, in their opinion, the future operations of our political institutions are dependent upon the continued respect and confidence of the people in them: as well as their unfeigned admiration of the unsurpassed disinterestedness and inflexible fidelity, with which those doctrines have, through evil and through good report, been sustained by that truly patriotic member of the confederacy.

That the judicial department of the Federal Government, was the exclusive expositor of the Constitution, in cases submitted to its judgment, in the last resort, was freely admitted. But, it was contended by that committee,—“*First*, that there may be instances of usurped power, which the forms of the Constitution would never draw within the control of the judicial department: *Secondly*, that if the decision of the judiciary be raised above the authorities of the sovereign parties to the Constitution, the decisions of the other departments not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department. That the resolutions of the General Assembly related to those great and extraordinary cases in which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. That the resort to the judiciary must necessarily be deemed the last, in relation to the authorities of the other departments of the Government: not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority of the power delegating it; and the concurrence of this department with others in usurped

powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve." That "a declaration that proceedings of the Federal Government are not warranted by the Constitution, was a novelty neither among the citizens nor the Legislatures of the States"—"nor could the declarations of either, whether affirming or denying the constitutionality of the measures of the Federal Government; or whether made before or after judicial decisions thereon, be deemed in any point of view an assumption of the office of a judge. The declarations in such cases are expressions of opinion, unaccompanied with other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will: possibly to a change in the opinion of the judiciary." Hence it was urged that there was no impropriety in the declaration by the Legislature that the alien and sedition laws were unconstitutional: nor was there any valid objection to the communication of that resolution to her sister States; nor in the invitation which was given to them to concur therein; nor in asking for the adoption of "necessary and proper measures by each, for co-operating with her in maintaining unimpaired the authorities, rights, and liberties reserved in the States respectively, or to the people."

But what were those measures which the Legislature of Virginia deemed "necessary and proper" to meet the exigency in the affairs of the country, so truly alarming as that which then existed, and to which their proceedings had reference? Was it to oppose, by State authority, the regular administration of justice in any case in law or equity committed by the Constitution to the Federal Judiciary? Did they relate to resistance by a member of the confederacy, to the execution of the laws of the United States, passed in conformity to the provisions of the Constitution; or embrace the revocation by a State of the powers which had, with so much solemnity, and under such high penalties, been granted by the people of the respective States to the Federal Government? Far, very far from it. Anticipations of this character were entertained when those resolutions were under discussion in the Virginia Legislature, and they were consequently denounced as the harbinger of civil commotion. These denunciations were met and refuted by the advocates of the resolutions, not only after they had been sub-



mitted to the other States, but when they were first submitted to the Legislature of that State. They were introduced by John Taylor, of Caroline.

In reply to these predictions he said, "Suppose a clashing of opinion should exist between Congress and the States, respecting the true limits of the constitutional territories, it was easy to see that if the right of decision had been vested in either party, that party, deciding in the spirit and interest of party, would inevitably have swallowed up the other. The Constitution must not only have foreseen the possibility of such a clashing, but also the consequence of a preference on either side as to its construction; and out of this foresight must have arisen the fifth article, by which two-thirds of Congress may call upon the States for an explanation of any such controversy as the present, by way of amendment to the Constitution, and thus correct an erroneous construction of its own acts, by a minority of the States; whilst two-thirds of the States are also allowed to compel Congress to call a convention, in case so many should think an amendment necessary, for the purpose of checking the unconstitutional acts of that body. Thus, so far as Congress may have power, it might exert it to check the usurpations of a State, and so far as the States may possess it, an union of two-thirds in one opinion might effectually check the usurpations of Congress. And under this article of the Constitution, the incontrovertible principle before stated might become practically useful, otherwise *no remedy did exist* for the only case which could possibly destroy the Constitution, namely, an encroachment by Congress or the States upon the rights of the other. \* \* \* \* Mr. Taylor then proceeded to apply these observations to the threats of war, and the apprehension of civil commotion, towards which the resolutions were said to have a tendency. Are the republicans, said he, possessed of fleets and armies? If not, to what could they appeal for defence and support? To nothing, except public opinion. *If that should be against them, they must yield.* \* \* \* \* How could the fifth article of the Constitution be brought into practical use, even upon the most flagrant usurpations? War or insurrection therefore, could not happen," &c. \* \* \* \* "Such, however, he hoped would be the respect to public opinion, that he doubted not but that the two reprobated laws would be sacrificed, to quiet the apprehensions even of a single State, without the necessity of a convention or a mandate from three-fourths of the States, whenever it shall be admitted

that the quiet and happiness of the people is the end and design of government."

Similar sentiments were advanced by the other supporters of the resolutions. Mr. *Mercer* said, "that force was never thought of by any one. The preservation of the Federal Constitution, the cement of the Union, with its original powers, was the object of the resolutions."

But all pretence for misapprehension or misconstruction upon this head is put at rest by the direct explanations of the Virginia Legislature, in the report which was made and received their sanction in the session of 1799; in which, in relation to the means referred to in the resolutions, and in answer to the objection that they might have been such as conflicted with the order and stability of the Union, they say, "In the example given by the State, of declaring the alien and sedition acts to be unconstitutional, and of communicating the declaration to the other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported too by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient as they are unexceptionable.

"It is no less certain that other means might have been employed which are strictly within the limits of the Constitution. The Legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or they might have represented to their respective Senators in Congress their wish that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

"These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther measures that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation."

Such was the understanding of the import and the intent of the resolutions by him who introduced them; by those who supported them; by the committee to which they were at a subsequent session referred; and by the Legislature which adopted their exposition.

It is a matter of undoubted historical fact, that the Virginia resolutions were drawn up by Mr. Madison, and those of Kentucky by Mr. Jefferson.

In the dispensation of an all-wise Providence, Mr. Madison's useful and brilliant life has been prolonged to this late period of existence. He has borne his testimony against the justice of any of the inferences which the committee have felt it their duty to repel; and they are unadvised of any act or declaration of Mr. Jefferson, who, in the confidence and affections of his fellow-citizens, was only second to the Father of his Country, which conflicts with the known views of his great coadjutor. The committee are well aware that the advocates of nullification have attempted to sustain that doctrine by expressions contained in an unpromulgated draft of the Kentucky resolutions found among his papers, in which is set forth the right of a State to nullify an act of Congress, passed in respect to a subject upon which its action is expressly inhibited, or upon which it had no authority to legislate at all. A suggestion which, if it were possible to make a paper so circumstanced whenever it may be found, the basis of so solemn an act, is clearly inapplicable to the case under consideration, inasmuch as it expressly declares, that for "an abuse of delegated power," (the most that could by possibility be made of the revenue laws) "*the members of the General Government being chosen by the people, a change by the people would be the Constitutional remedy.*" But the published writings of that great man are replete with the evidences of his avowed opinions, inconsistent with the supposition that he believed in the right of a single State either to make constitutional resistance to the laws of the United States or to dissolve the Union by withdrawing herself from it, when, in her sole judgment, the circumstances were sufficient to justify the act.

In a letter to Mr. Destutt Tracy, in January, 1811, he says, "Dangers of another kind might more reasonably be apprehended from this perfect and distinct organization, civil and military, of the States, to wit: that certain States from local and occasional dis-

contents, might attempt to secede from the Union. This is certainly possible; and would be befriended by this regular organization. But it is not probable that local discontents can spread to such an extent, as to be able to *face the sound parts of so extensive a Union*—and if ever they should reach the majority, they would then become the regular government, acquire ascendancy in Congress, and be able to redress their own grievances by laws peaceably and constitutionally passed.”

In a letter to Elbridge Gerry, of January, 1812, he uses these significant and emphatic expressions:—“What, then, does this English faction with you mean? Their newspapers say rebellion, and that they will not *remain united with us*, unless we will permit them to govern the majority. If this be their purpose, their anti-republican spirit, *it ought to be met at once*. But a government like ours should be slow in believing this, *should put forth its whole might when necessary to suppress it*, and promptly return to the paths of reconciliation. The extent of our country secures it, I hope, from the vindictive passions of the petty incorporations of Greece. I rather suspect that the principal office of the other seventeen States, will be to moderate and restrain the local excitement of our friends with you, when they (*with the aid of their brethren of the other States, IF THEY NEED IT,*) *shall have brought the rebellious to their feet*.”

In a letter to Major John Cartwright, as late as June, 1824, he says, “But, you may ask, if the two departments, (meaning the General and State Governments,) should claim each the same subject of power, where is the common umpire to decide ultimately between them? In cases of little importance or urgency, the prudence of both parties will keep them aloof from the questionable ground: but if it can neither be avoided nor compromised, a convention of the States must be called, to ascribe the doubtful power to that department which they may think best. You will perceive by these details, that we have not yet so far perfected our Constitutions as to venture to make them unchangeable. But still, in their present state, we consider them not otherwise changeable than by the authority of the people, on a special election of representatives for that purpose expressly: they are until then the *lex legum*.”

The committee have felt it their duty to say thus much, in order to separate the doctrines of 1798, from the principle now in question.

So far, at least, as they are contained in and depend on documents which deserve to be held in respectful remembrance whilst the Constitution endures.

Neither do the committee concur in the opinion that the right of secession necessarily results from the sovereignty of the States. It appears to the committee, and they express their views with unfeigned deference to the highly respectable opinions of those who differ with them, that this impression arises from erroneously regarding the sovereignty of the respective States as unqualified, and the association a *mere* confederacy of free and sovereign States. If such were the case, if the union were a mere league, the result contended for might follow; but the committee do not so understand the system. The States, on the contrary, as it was competent for the people of each, acting in their highest sovereign character, have voluntarily established, by express grant, a sovereignty in some respects concurrent with, and in other respects superior to, their own. This authority thus established, though founded on a compact, is nevertheless a government which is made by that compact sovereign and independent as to the powers granted to it, in the same manner as the States are sovereign and independent as to powers not granted. The people of the respective States have stipulated that their legislatures, and all their executive and judicial officers, shall be bound by oath or affirmation to support the Constitution of that government. For a breach of their allegiance to it, they have voluntarily subjected themselves to the highest penalties known to human laws; and to maintain its sovereignty, they have invested this government of their own creation with the purse and sword of the nation. The faithful performance of this contract is certainly matter of high obligation on all the parties to it; and no condemnation by the people can be too severe upon such as are so lost to the obligation under which they rest, to each other, to the people, and to the cause of free government throughout the world, as to be guilty of its intentional violation. But, of the fact and consequences of such a breach, in cases where no other umpire has been designated, it is the right of each party to judge for itself; not for the Federal Government exclusively, as was contended by the States which protested against the Virginia and Kentucky resolutions in 1799; nor for each State solely, as is now contended. No right is reserved to the people of any State to absolve themselves from the performance of duties which they have so solemnly assumed, without the consent of the other party or

parties to the compact. Each State, on surrendering a portion of its sovereignty, acquired, in consequence thereof, a right to the perpetual adherence of each of its co-States to that Union, which is so necessary to, and was established for, the security of all.

The Articles of Confederation abound with declarations that the Union then formed should be perpetual; and the present Constitution was established for the avowed purpose of making it more perfect. New-York entered into the formation of it expressly "to render the Federal Constitution adequate to the exigencies of the Government, *and the preservation of the Union.*" Deficient, indeed, would have been the work which came from the hands of those great men who framed the Constitution, the final adoption of which was hailed with so much joy by the people, if it thus contained the elements of its own destruction.

When a State shall attempt to withdraw herself from the Confederacy, it is for her co-States to decide whether they will relinquish the rights which they acquired when they surrendered a portion of their sovereignty—consent to a dissolution, and endeavor to establish a new government; or whether they will insist on the preservation of the Union as it is. Without the recognition of this right, the Union could not have existed to the present day. Strip the States of this right, and a system which but yesterday excited the respect and admiration of the world, must soon, very soon, serve only as an additional argument in the mouths of monarchists and absolutists against the capacity of man for self-government.

Let it not, however, be supposed that the committee are the advocates of unconditional submission. Such are not their views. They concur fully in the sentiment, "that the authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind." Or, in the language of our own State, "that the powers of government may be re-assumed by the people, whenever it shall become necessary to their happiness." In respect to State governments, this control can be constitutionally exercised by a bare majority of the people; and in the Federal Government, by a specified number of the States. But this is not the only mode by which the people can redress intolerable grievances. There is another, which cannot be better described than has been done by Mr. Madison. "And in the event (says he) of the failure of every

constitutional resort, and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil than resistance and revolution, there can remain but one resort, the last of all—an appeal from the cancelled obligations of the compact, to original rights and the law of self-preservation. This is the *ultima ratio* under all governments, whether consolidated, confederated, or a compound of both. And it cannot be doubted that a single member of the Union, in the extremity supposed, but in that only, would have a right, as an extra and ultra-constitutional right, to make the appeal.”

It was to this species of separation, which God in his infinite mercy avert! that the committee understand Mr. Jefferson as referring, when he alluded to the farther measure of redress which might be resorted to in extreme cases, and spoke of Virginia’s “standing by her arms.” It was this great calamity that he sought to avoid, when he so eloquently and feelingly invoked his native state never to think of it, until the sole alternatives left, were a dissolution of the Union, or submission to a government, without limitation of power.

The history given by the President, of the formation of our Government, has drawn forth conflicting opinions in respect to its accuracy ; and lest the committee might be regarded as having omitted any portion of their duties, they will, upon this subject, also, with deference to the views of others, briefly but frankly state their own.

The character of our government, so far as that is effected by the manner in which the Federal Constitution was framed and adopted, has been always a matter of more or less contention. Differences of opinion upon the subject, have been in some degree fostered by a seeming discrepancy between the preamble of the Constitution, and historical facts; and perhaps in a still greater degree, by the different senses in which the term “States” is used by different persons. If we use that term, not merely as denoting particular sections of territory, nor as referring to the particular governments, established and organized by the political societies within each, but as referring to the *people composing those political societies, in their highest sovereign capacity* (as the committee think that in this respect the term should be used) it is incontrovertible, that the States must be regarded as parties to the compact. For

it is well established, that, in that sense, the Constitution was submitted to the States; that in that sense, the States ratified it. This is the explanation which is given of the matter in the report to the Virginia Legislature, which has already received the sanction of the committee. It is in this sense of the term "States," that they form the constituency from which the Federal Constitution emanated, and it is by the States, acting either by their Legislatures, or in Conventions, that any valid alterations of the instrument can alone be made. It is by so understanding the subject, that the preamble is reconciled with facts, and that it is a Constitution established by "the people of the United States," not as one consolidated body, but as members of separate and independent communities, each acting for itself, without regard to their comparative numbers. It was in this form that the Constitution of the United States was established by the people of the different States, with the same solemnity that the Constitutions of the respective States were established; and, as the committee have heretofore insisted, with the same binding force in respect to the powers which were intended to be delegated to the Federal Government. The effects which are likely to be produced by the adoption of either of the different versions of the Constitution which have at different times been contended for, it is not the intention of the committee to discuss. The positive provisions and restrictions of that instrument, could not be directly abrogated by the recognition of either. The comparative weight and influence which would be attached to the allegations and remonstrances of the States, in respect to the supposed infractions of the Compact might, however, be very different, whether they are regarded as sovereign parties of the Compact, acting upon their reserved rights, or as forming only indiscriminate portions of the great body of the people of the United States, thus giving a preponderance to mere numbers, incompatible with the frame and design of the Federal Constitution.

The diversities of opinion which have arisen upon this subject, have been more or less injurious according to their influence in inclining or disinclining the minds of those who entertain them, to a faithful observance of the landmarks of authority between the respective governments. Professions are easily made; and the best evidence of a correct appreciation of the nature and design of the system by a public agent, is to be found in the general bearing of his official acts. If his conduct be characterized by a desire to administer the government upon the principles which his constitu-



ents have elected, and by a determination to repudiate the dangerous heresy, that the Constitution is to be interpreted, not by the well understood intentions of those who framed and of those who adopted it, but by what can be made out of its words by ingenious interpretation; if he honestly believes that the people are the safest depository of power, and acts up to that belief, by evincing an unwillingness to exercise authority which was not intended to be granted, and which the States and the people might not, on open application, be willing to grant; if he has steadily opposed the adoption of all schemes, however magnificent and captivating, which are not warranted by the Constitution—which, from the inequality of their benefits and burthens, are calculated to sow discord where there should be union, and which are too frequently the offspring of that love of personal authority and aggrandizement which men in power find it so difficult to resist. If he has done all in his power to arrest the increase of monopolies, under all circumstances so adverse to public liberty, and the equal interests of the community: If his official career has been distinguished by unceasing assiduity to promote economy in the public expenditures, to relieve the people from all unnecessary burthens, and generally to preserve our republican system in that simplicity and purity which were intended for it—under which it has hitherto been so successful, by which it can alone be maintained; and on account of which it has, until this moment, stood in such enviable and glorious contrast with the corrupt systems of the old world: If such be the traces of his official course, and if in maintaining it he shall have impressed all mankind with the conviction that he regards as nothing, consequences which are merely personal to himself, when they come in contact with duty to his country, the people of the United States will not doubt his attachment to the true principles of that Constitution which he has so faithfully administered and so nobly supported. Such, the committee take pride in saying, has been the official course of our present Chief Magistrate, a course by which, in the judgment of the people of this State, he has established for himself imperishable claims to their gratitude, respect and confidence.

The committee have thus explained their views upon the several delicate and deeply interesting questions before them, with that frankness which becomes the solemn occasion on which they act, and which should always characterise the movements of a sove-

reign State upon matters involving her relations with her sister States. In doing so they have felt it to be their duty to vindicate and explain the political principles which are entertained by themselves, and, as they believe, by a majority of the good people of this State. In the performance of this act of justice and duty, they have endeavored to avoid all imputations upon the motives of those who may differ from them. The same independence and toleration which they claim for themselves they are disposed to extend to others. Amidst the conflict of interests and feelings with which those, who are charged with the conduct of public affairs at this interesting crisis, are obliged to struggle, there is happily one opinion which has not yet met with a dissenting voice in all the land; and which it is fervently hoped, is too deeply implanted in the minds and hearts of the people to be ever eradicated. It is a thorough conviction, that anarchy, degradation, and interminable distress, will be, must be, the unavoidable results of a dissolution of the union of these States. Associated with this undeniable and undenied truth, and growing out of it, there are, we trust, two other sentiments of equal universality—a determination to maintain the Union at all hazards, and a willingness to make liberal concessions, nay sacrifices, for the preservation of peace and reciprocal good will amongst its members. Upon this great conservative platform all sincere friends of the Union, all who honor and truly respect the parting admonitions of the Father of his country, all who prefer that country to their own ambitious views or personal aggrandizement, and who are disposed to give to the Executive of the United States a cordial and efficient support, can meet, and act in concert to promote the greatest of all earthly objects. Here all may earn the enduring respect and confidence of the people, by an honorable sacrifice of personal and party feelings on the altar of their country's safety. We may differ as to the time, the manner, or the extent of the measures to be employed, whether of conciliation or coercion. It cannot be expected, at the present crisis, that honest and unprejudiced minds should all happen to arrive at the same conclusion. But such differences should not occasion heart burnings, much less resentments. Our fathers differed in like manner in the establishment of our Government; and it is in vain for us to hope for exemption from similar embarrassments; the causes which produced them have not yet ceased to operate; they have been planted by the hand of nature, and cannot be entirely removed by that of man. Those, to whose valor and disinterested

patriotism we are indebted for this glorious system under which we have so long and so happily lived, overcame them by mutual concession and compromise. If every man looks only to his own interest, or every State to its own favorite policy, and insists upon them, this Union cannot be preserved. We must not deceive ourselves upon this point, or suffer others to deceive us. Our errors, in this respect, may lead to consequences which can never be recalled; and over which we and our posterity may have occasion to shed bitter tears of repentance; we must take higher counsel than that which is derived from our pockets or our passions; we must be just, and, if need be, generous; and the deep and overpowering attachment of the great mass of the people to the Union, the fidelity, energy, and fortitude of their character, directed by the illustrious man so providentially at the head of the Government, will carry us safely through the dangers which threaten our beloved country.

It remains only to reciprocate, as the committee doubt not the two Houses will readily do, the magnanimous and enlightened sentiments expressed by the Governor upon the subject which has caused the present embarrassments in our public affairs. Most cheerfully, therefore, do they respond to his declarations, which "disclaim for New-York all desire to aggrandize herself at the expense of her sister States, or to pervert to local purposes, a system of government intended for the common benefit of all;" which assert her estimate of the value of the Union and her devotion to it; and which avow her willingness, if the operation of existing laws be adverse to those views, to consent to such a modification of them as will remove all just ground of complaint, and afford substantial relief to every real grievance. In these sentiments the committee recognize the best policy as well as the true glory of these States; a policy "which cultivates peace and harmony by observing justice."

The opinion of this State in favor of the constitutional power of Congress, to afford encouragement and protection to domestic products, by the establishment for that object of suitable commercial regulations, has been too often declared to need repetition. Neither time nor circumstances have contributed to change its convictions, either of the existence or importance of this right. Without it, it would not be possible for the federal government to carry into effect one of the principal objects of its institution: and the

United States would, in relation to our own exports be left altogether at the mercy of foreign nations. The possession of the right, however, and the manner and extent of its exercise are very different matters. Whatever causes of serious apprehension for the stability of the Union may heretofore have arisen from this source, it appears to the committee that they have been greatly lessened by the payment of the national debt and the disposition of the Executive of the United States; and, as the committee firmly believe, of the great body of the people, to make such a modification of the tariff as becomes by that event just and practicable. The repeated recommendations of the President to reduce the revenue to what is requisite to defray the expenses of the government, necessarily incurred within the pale of the Constitution, and under a strictly economical administration of our affairs, have been so distinctly and emphatically sanctioned by the people of this State, as to leave no room for doubt or cavil as to their cheerful acquiescence in the measure. Indeed, the committee are yet to learn, that there is any man in this great community who advocates or would justify the collection of taxes from the people for any other purpose, and certainly not for the sole one of taking money from the pockets of one class of our people to put it into those of another. All that is asked, is, that the amount of duties thus raised, and so expended, shall be levied in such manner as to afford reasonable encouragement and protection to our own manufactures and other productions, to enable them to compete with similar articles, the manufacture or production of other countries. With such qualifications as may be necessary to prevent injustice, and to preserve inviolate that sound rule of legislation, which requires that all public burthens should be borne in a fair proportion to the ability of the contributors, and the extent of the security which they derive from the government. In other words, that too large a share of the public taxes be not imposed upon those articles of prime necessity to the poor, to the exoneratation of articles of luxury, which are used only by the rich.— And further, that the reduction of duties, thus rendered practicable by the payment of the public debt, though ultimately certain, should not be sudden and capricious, but tempered to the condition of existing establishments—establishments which have grown up and been encouraged by our legislation, and whose claims to the favor and indulgence of the government and people are founded upon the public faith. To a claim so reasonable the committee are unwilling to believe that the real friends of the Union any where can object.

Men may resist to the uttermost the imposition of unreasonable burthens for the protection of articles, in the manufacture and production of which they are not immediately concerned. But, there are, surely, no American citizens who, exempt from such impositions, would not prefer to encourage those of their own country, in preference to the fruits of foreign labor.

It is not in behalf of New-York, particularly, that these considerations are urged. For it is notorious, that this State is not the principal seat of manufacturing establishments. But justice dictates the same course whatever and wherever be its application.

The rules by which this distribution and reduction of the public burthens are to be effected, must from the nature of things, be more or less arbitrary and uncertain. But if the subject be undertaken and prosecuted in good faith—if the tariff system be not made subservient to purposes of personal ambition, nor to the cravings of individual cupidity, but treated as a matter of business affecting, deeply, the private concerns of every man in every quarter of the Union, there is no doubt of the ability of Congress to adopt such rules as will be satisfactory to the nation.

That the bill of the last session will not reduce the revenue to the proposed standard is certain. The anticipated excess is estimated at between six and seven millions of dollars. Whether the late act should be permitted to go into operation with the intention of modifying the system at the next session of Congress; or whether the object in view shall be effected at the present session, by a law which, though passed now, shall have a gradual operation, is an important point in the difficult and deeply interesting question to be decided. The committee are by no means insensible to the embarrassment arising from the existence of the Ordinance of the State of South Carolina, and regret that any such obstruction should have been thrown in the way of a regular expression of the public will. They could never advise any legislation by Congress under the dictation of any power; and they have very little fear, that any such will be desired by the executive, or sanctioned by that body. It must, however, be borne in mind, that South Carolina is not the only State which considers herself injuriously affected by the existing law, and seeks relief from its operation; that there are many other States who are, in this respect, similarly circumstanced, whose alienation from the Union

would be the greatest calamity that could befall us, but who have shown as much devotion to the Union, and have manifested as much repugnance to the measures of South Carolina as any. It is then for a justice and sound discretion of Congress to decide, whether, whilst all proper measures are adopted to maintain the laws of the United States in the State of South Carolina, in the same manner as if no such Ordinance had been passed, they may not without detriment to the honor and dignity of the Government, now act upon a matter which has been so specially and urgently submitted to them by the Executive. We may be assured that there is sufficient intelligence and virtue in the people to judge those greatly deprecated measures by themselves, uninfluenced by prejudices of any sort on the one hand, or by the contemporaneous measures of the Government on the other. Nor is it a matter of slight importance to the people of this State to consider whether the acts of South Carolina ought to occasion a collection from them of about one million of dollars annually, a sum three times as large as is required for the entire expenses of our State Government, when the President informs us that it is not needed for the public service.

The duty of deciding upon these grave matters rests, as has been justly observed by the Governor, so far as this State has a voice in the discussion, with those who represent us in the Congress of the United States. There, the committee think, with a general expression of the sense of the Legislature, it ought and may with safety be left. It would, doubtless, be competent for the Legislature to give explicit advice and instruction to their representatives upon the subject, but from the obvious superiority in position of our representatives in Congress, to take a better view of the whole ground than that which is possessed by us, and from the great extent to which the question as to the most proper time for action, as well as the particular provisions which ought to be made, are dependent on facts and details, of which it is impossible that we can be as capable of judging as they are, the committee think the Legislature will best consult their duty and the interests of all, by confining themselves, at this time, to the general expression of opinion which is now most respectfully proposed.

If by a faithful adherence to the principles here advanced in their behalf, the people of this State can contribute to the restoration and preservation of that fraternal affection in which the Union was originally founded, by which it was once cemented, and which is

so essential to its preservation, it will be to them a source of much joy and deep gratitude to the Supreme Disposer of events, for the agency they have been permitted to exercise in effecting so great a good. But if, on the contrary, their well-meant efforts prove unavailing, if the offerings of peace and good will which have been so freely and so sincerely tendered by them, in conjunction with their co-States who participate in the same sentiments, shall be rejected; if in the providence of God it be decreed that this Government and this happy Union, the affairs of which have been hitherto so successfully directed by it, are to be put to the final test, the government and people of this State will meet the crisis with the sustaining consciousness, that they have done all that duty enjoined and honor permitted to avert the worst calamity that could befall the country.

The committee respectfully suggest, for the consideration of the Legislature, the following resolutions:

*Resolved*, (if the Assembly concur,) That we approve of the preceding report.

*Resolved*, (if the Assembly concur,) that we regard the Union of these States as indispensable to their prosperity and happiness; that we participate fully in the desire which has been manifested by the President to restore harmony and conciliate affection amongst all the people of the United States, by a seasonable and equitable modification of the Tariff, adapting it to the present condition of the country; that we approve the measures he has adopted and recommended to sustain the authority and execute the laws of the United States; and that the government and people of this State will cordially co-operate with him in the exercise of all the means which may be necessary and proper to secure those objects.

*Resolved*, (if the Assembly concur,) That the Governor be requested to transmit a copy of the foregoing report and resolutions to the Executive of the State of South Carolina, and to the Executives of the other States respectively, to the end that they may be communicated to the Legislatures thereof, and also a copy of the same to the President of the United States, and to each of our Senators and Representatives in Congress.

**No. 35.**

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**IN SENATE,**

**January 29, 1833.**

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**REPORT**

**Of the committee on canals, to whom was referred  
the petition of Ogden Mallery.**

Mr. Armstrong, from the committee on canals to which was referred the petition of Ogden Mallery, together with the report of the Canal Commissioners thereon,

**RESPECTFULLY REPORTS:**

The petitioner represents that in the month of May, 1826, he became the assignee of a contract entered into between the Canal Commissioners of the State of New-York, and Abraham L. Bemont and others; by which the said Bemont and others, covenanted and agreed to construct locks No. 8, 9, 10, and 11, on the Oswego canal, to be in all respects similar to the locks on the Erie canal, at Syracuse; that upon receiving the assignment, he was expressly told by the assignors thereof, that the work contemplated to be performed therein, did not include the digging of the pits or the making embankments, or any excavation for said locks: That in pursuance of this understanding he expended about seven thousand dollars in prosecuting the work, when he was for the first time apprised by the Canal Commissioners, that the contractors were bound to make all the excavations and embankments necessary for building said locks; that he then remonstrated with the Commissioners upon the extreme hardship of the case, stating his inability to make the necessary excavations and embankments to complete the locks without additional compensation therefor; that he was advised by the Commissioners to continue the work, and that he would receive compensation for all extra work beyond which he contemplated as being embraced in the terms of his con-



tract; that in accordance with such advice, he continued the work and actually finished locks No. 8, 9, 10 and 11; that in so doing he incurred a heavy expense, far beyond the amount of compensation specified in said contract, no part of which has been refunded to him.

It seems that the petitioner rests his claim upon the State for further compensation for building said locks, upon two grounds.

1st, Upon the misrepresentations made to him by the original contractors, as to the amount of labor that was intended to be included in the contract; and

2d, Upon the advice given and promises made to him by the Canal Commissioners.

It may be true, as the petitioner represents, that the original contractors practised a fraud upon him by misrepresenting the amount of work that was intended to be included in said contract; and the committee have no doubt that he has suffered losses in the prosecution of the work, but they can see no reason why the State should be held responsible for the frauds practised by an original contractor upon a sub-contractor.

As to the second ground upon which the petitioner rests his claim, the Canal Commissioners have expressly contradicted the allegations of the petitioner in a report made to the Assembly in the year 1829, which may be found in the Assembly Journals of that year, page 930, to which the committee beg leave to refer.

The committee, upon a view of the whole subject, recommend the adoption of the following resolution.

*Resolved*, That the prayer of the petitioner ought not to be granted.

**No. 36.**

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**IN SENATE,**

**January 29, 1833.**

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**REPORT**

**Of the select committee on the petition of Rufus Stanton.**

Mr. Edwards, from the committee to whom was referred the petition of Rufus Stanton,

**REPORTED:**

That upon an examination of the subject referred to them, as set forth in the said petition, it appears that the said Stanton is the owner of the west half of blocks No. 21 and 10, and of the whole of blocks No. 4 and 5 in the village of Lodi, in the town of Salina, and that the same was sold by the State on the 19th of June, 1822, as it appears by referring to the proceedings of the Commissioners of the Land-Office.

The committee further report, that on the 10th of March, 1827, an act was passed authorizing a sale of twenty-five acres of land, to Moses D. Rose, which act was amended by a subsequent act passed on the 23d of April, 1829; and that by virtue of the aforesaid acts, the Commissioners of the Land-Office, by the consent of the said Rose, or otherwise, (by what authority it does not appear,) passed a resolution on the 3d of May, 1829, authorizing the Surveyor-General to issue a certificate of sale for the aforesaid twenty-five acres to John H. Lothrop, which land comprises a part of the east half of blocks No. 21 and 10, and that in pursuance of the said resolution of the said Commissioners of the Land-Office, the Surveyor-General made a conveyance of the aforesaid twenty-five acres to the said Lothrop: But the committee cannot ascertain from any map or document in the Surveyor-General's office, that there is a gore of land belonging to the State, lying between

[Senate, No. 36.]

the aforesaid twenty-five acres and the west half of the aforesaid blocks No. 21 and 10, so owned as aforesaid by the said Stanton, nor is the Surveyor-General aware that such is the fact, but admits that it may be so. The said Stanton however admits the fact in his petition, that there is a gore of land lying between the land so owned by him as aforesaid, and the twenty-five acres so owned as aforesaid by the said Lathrop, about six rods wide at the south end, running north about forty rods to a point; and that he has had the same inclosed with his land above described, about six years, and that he is now desirous that an act may be passed authorizing the Commissioners of the Land-Office to cause the said gore of land to be appraised and conveyed to him, on his paying the appraised value thereof.

The committee have therefore come to the conclusion that the prayer of the petitioner ought to be granted, and have instructed their chairman to ask leave to introduce a bill accordingly.

**No. 37.**

**IN SENATE,**

**January 29, 1833.**

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**ANNUAL REPORT**

**Of Robert Barnes, an Inspector of Hops for the city  
of New-York.**

*To the Honorable the Legislature of the State of New-York.*

In conformity with former practice on the hop inspection, I herewith transmit a statement of all proceedings as inspector for the port of New-York, during the last 12 months, ending first of first month, 1833, say quantity and value as near as I can obtain information on sales.

1,801 bales of hops, containing 365,603 lbs. at 21 cts. **\$76,776 63**

Inspector's fees at 10 cents per 100 lbs. .... **\$365 60**

“ commissions on sale of 1 bale at auction by

Pell & Son..... **1 79**

Inspectors commissions on 11 bales settled by compromise, **25 37**

**\$392 76**

Deduct for extra labor and other incidental expenses,... **90 05**

Inspectors nett fees and commissions, ..... **\$302 62**

I may also add there has not been an article subject to inspection stored with me except as above stated. I may however remark my disappointment on the issue of the replevin suit with Livingston, my having with advice of counsel, followed the strict letter of the statute on hop inspection, and am now left, as far as I can discover, without the power of remuneration for advances made on said suit, amounting to \$72.50; also apparently deprived of commissions on amount of invoice, and Capt. Pell's forfeiture, amount-

[Senate, No. 37.]

ing to a still larger sum. Perhaps the present Legislature in their wisdom, may correct past errors by supporting our former statutes.

Yours most respectfully,

ROBERT BARNES, *Inspector.*

P. S. I may add payments to the commissioners of alms-house on May 5th, 1832, of balance received of Daluze & Co. on the compromise, ..... \$92 00  
Also nett proceeds on single bale, paid commissioners alms-house January 21st, 1833, ..... 8 88

I certify that the foregoing statement is correct and true.

ROBERT BARNES.

*New-York, January 21st, 1833.*

Personally appeared before me, said inspector, R. Barnes, and affirmed to the truth and correctness of the foregoing statement.

JOHN YATES CEBRA, *Alderman 1st ward,  
and Justice of Peace for city and county of New-York.*

**No. 38.**

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**IN SENATE,**

**January 30, 1833.**

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**REPORT**

**Of the Commissioners of the Canal Fund, relative to the receipts and expenditures on the Erie and Champlain canals, in obedience to a resolution of the Senate.**

CANAL ROOM, }  
*Albany, 28th Jan. 1833.* }

The Commissioners of the Canal Fund, to whom was referred by the Senate, a resolution of the 19th instant, requesting a copy of their statements of moneys received and paid on account of the Erie and Champlain canals, and which are appended to their annual report of 1826, and a continuation of said statements from that time to the 30th Sept. 1832, submit the annexed statement in compliance with the request contained in the said resolution.

It will seen by reference to the table herewith presented, that the sums received by the Commissioners of the Canal Fund since 1817, on account of the Erie and Champlain canals, are as follows, viz:

Avails of loans, exclusive of premiums, .....	\$7,672,782 24
Premiums on loans, .....	223,368 76
Tolls, .....	6,966,698 55
Vendue duty, .....	2,843,456 34
Salt duty, .....	1,483,686 65
Steam-boat tax, .....	73,509 99
Sales of Lands, .....	67,206 69
Interest on investment of surplus funds, .....	248,359 98

[Senate, No. 38.]

Rents of surplus waters, .....	\$7,275 68
Other receipts, for the items of which, see the reports of the Commissioners for the years opposite to which the sums are respectively placed in the statement, .....	17,039 44

Total amount received by the Commissioners of the Canal Fund, from all sources, from 1817, to 30th Sept. 1832, .....	\$19,603,384 32
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The sums paid out by the Commissioners are as follows, viz:

To the Canal Commissioners, .....	\$9,809,304 60
For interest on canal debt, ..	4,150,553 66
To the stockholders of the Western Inland Lock Navigation Company, .....	152,718 52
Notes given to contractors by Myron Holley, as Treasurer of the Canal Commissioners, and for which he obtained their receipts, and a credit on his account with the State, (see chap. 4, and 293 of the session of 1825,) .....	17,155 21

Miscellaneous payments, viz:  
for salaries of weigh-masters and their assistants, printing, including blanks, circulars, and all other printing for canals, incidental expenses of Commissioners of the Canal Fund, tolls refunded, costs of suits, balances of collectors accounts, for a particular description of which, see the reports of the Commissioners for the years, opposite

Brought forward, .....	\$14,129,732 69	\$19,603,384 32
------------------------	-----------------	-----------------

Brought forward,....	\$14,129,732 69	\$19,603,384 32
to which the sums are respectively entered on the statement, .....	84,767 29	
To superintendents of repairs,	1,561,004 03	
For extinguishment of canal debt, .....	750,535 13	
Loaned and invested, (for the items of this column, see pa. 10 of the last annual report, and the explanation below, in regard to the premium paid for stock purchased,)..	1,687,351 30	
Total amount paid out by the Commissioners of the Canal Fund, from 1817, to 30th Sept. 1832,.....		\$18,213,390 44
Leaving a balance in the hands of the Commissioners, as stated in their last annual report, pa. 11, of.....		\$1,389,993 88

This balance is the sum deposited in the two Albany banks, and in the banks in which the tolls are deposited by the collectors. The sum under the head of "loaned and invested" (excepting therefrom \$22,097.53, being the premium paid upon the stock purchased,) when added to the balance before referred to, makes the total amount in the hands of the Commissioners, applicable to the payment of the canal debt, as stated at page 11, of the last annual report, \$3,055,247.65.

When the annual report of the Commissioners was made to the Legislature in 1826, embracing their transactions up to the close of December, 1825, the Erie and Champlain canals were considered as finished, and the sums expended for these canals, including the amount paid to the Canal Commissioners for their construction, the interest paid on the loans, the purchase of the stock of the Western Inland Lock Navigation Company, the notes of Myron Holley, and about six thousand dollars for incidental expenses, made an aggregate expenditure for the completion of the Erie and Champlain canals, of \$10,731,594.75.



Up to the close of the year 1825, there had been no surplus in the hands of the Commissioners, consequently there had been no investments, and their transactions had been confined exclusively to the receipt of the avails of loans, and of revenue from the treasury, and to the payment of the interest on the loans, and the expenses of the construction and maintenance of the canals. This being the case, the table of their receipts and payments up to that time embraces all the transactions in each year; and the amount carried into the "total" column, opposite to the year, is the correct amount of those transactions for the year given.

Commencing with the year 1826, the surplus revenue began to swell upon their hands, sufficiently to enable them to pay off, as will be seen by the statement, \$270,000 borrowed in 1825, and made redeemable in 1826. In 1826 they commenced loaning these moneys, and in 1827, investing them in stocks, and consequently the statement of their receipts and payments, if continued upon the same principle as that upon which the first was made, (which was to give all the transactions in a year,) would necessarily embrace the buying and selling of stocks, and the loaning and re-payment of moneys in the same year. This, for the purpose of answering the object of the resolution, was not supposed to be necessary, and some transactions of that nature have been left out altogether; for instance, \$100,000 U. S. stock bought and sold in 1827, and \$150,000 loaned to the city of Albany in 1828, and repaid in 1829, 1830 and 1831. The effect of this manner of making the statement is, that in the case of loans and investments, the column headed "loaned and invested," although it does not give all the transactions of that kind, shows in the footing of \$1,687,351.30, the actual cost of the investments, which, in the case of stock differs from the face of the scrip by the amount of the premium and discount. Thus it will be seen on a comparison of the footing of that column with the amount stated in the last report of the Commissioners to be loaned and invested, that the former amount exceeds the latter, \$22,097.53. This difference is to be accounted for as follows:

Premium on \$100,000 U. S. stock, purchased in 1827,	\$2,004	37
"          100,000 Del. & Hudson, "          "	10,978	25
"          100,000 "          "          1828,	8,375	00
"          10,000 Nev. Nav. Co. "          "	100	00
Carried forward, .....	\$21,457	62

	Brought forward,.....	\$21,457 62
Discount on	100,000 U. S. stock sold in 1827,.....	639 91
		<hr/>
		\$ 22,097 53
To which add the amount stated in the last report		
of the Commissioners, to be invested, (see pa. 10,)	1,665,253 77	<hr/>
And it makes.....		\$1,687,351 30
Being the amount which is placed in the accompanying statement		
under the head of "loaned and invested."		

The detail of all these transactions has been given by the Commissioners in their annual reports for the years in which they occurred, as well as that of several transfers of bonds and purchases of canal stock, which do not affect the accuracy of the results of the table, and for that reason were left out of it.

Respectfully submitted.

A. C. FLAGG, *Comptroller,*

JOHN A. DIX, *Secretary,*

A. KEYSER, *Treasurer,*

GREENE C. BRONSON, *Attorney-Gen.*



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**No. 39.**

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**IN SENATE,**

**January 28, 1833.**

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**ANNUAL REPORT**

**Of George Seaman, an Inspector of Pot and Pearl  
ashes for the county of New-York.**

*New-York, January 22, 1833.*

**HON. JOHN TRACY,**

*President of the Senate of the State of New-York.*

**SIR,**

I herewith transmit the annnal report of pot and pearl ashes  
inspected by me, as required by law.

Respectfully your ob't. serv't.

**GEORGE SEAMAN,**

*Inspector of pot and pearl ashes for the county of New-York.*



# ANNU.

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"	.....	1,338 41
"	.....	154,713 35
"	.....	14,688 20
"	.....	1,113 80
"	.....	5 24

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unds of scr..... 5,184 75

unds. the same, \$727,644 81

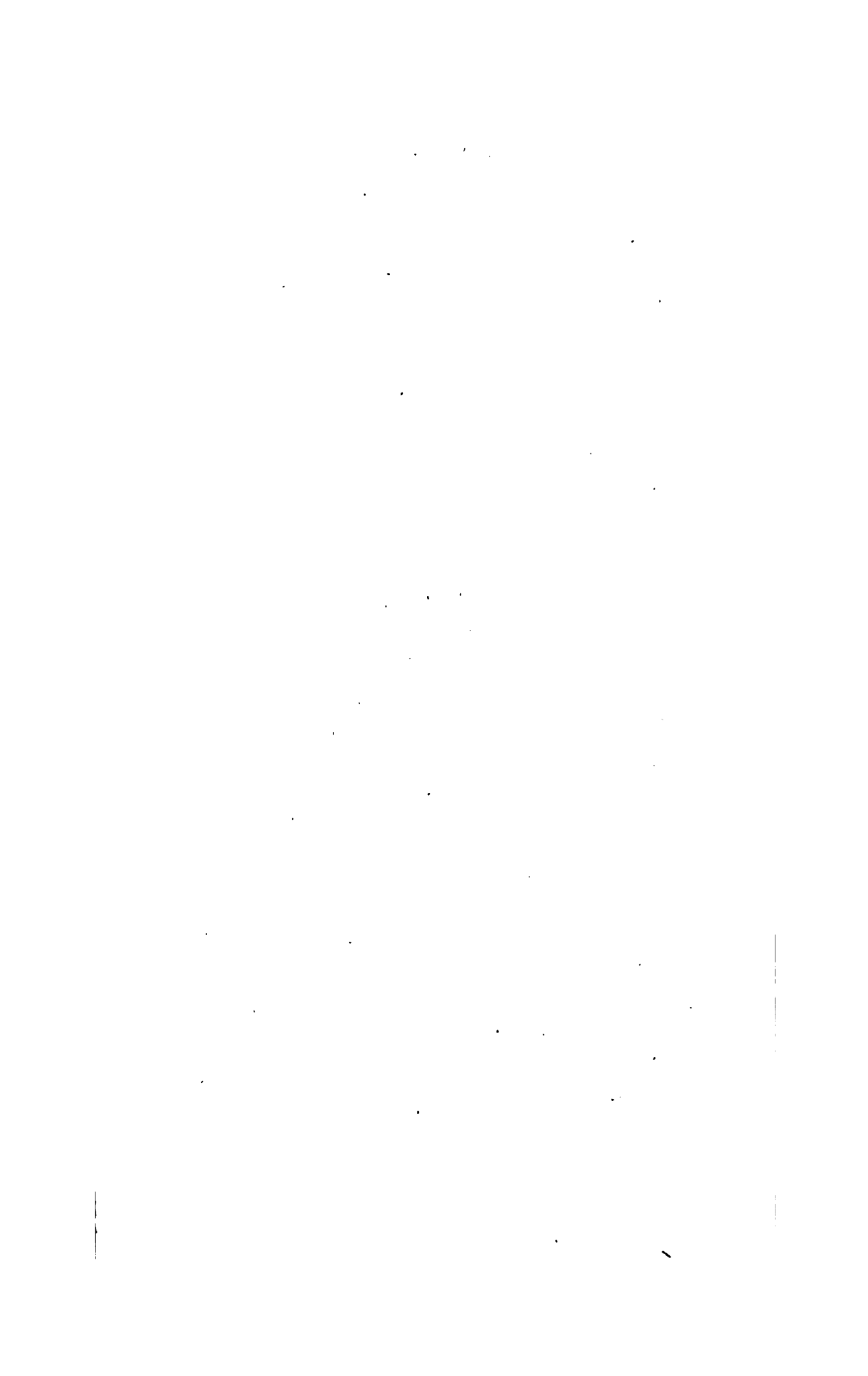
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...	6,276 50
\$20,499 8...	3,900 00
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**No. 40.**

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**IN SENATE,**

**January 31, 1833.**

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**REPORT**

**Of the judiciary committee, on the petition of inhabitants of Montgomery county, for a law authorizing the appointment of a supreme court commissioner to reside at Johnstown.**

Mr. Beardsley, from the committee on the judiciary, to whom was referred the petition of sundry inhabitants of the county of Montgomery, for a law authorizing the appointment of a supreme court commissioner to reside in the village of Johnstown,

**REPORTED:**

That for many years the first judge of the county of Montgomery has resided at Johnstown, and is a counsellor of the supreme court, and such is the case at present.

A supreme court commissioner also resides in that county at Canajoharie.

The petitioners request the passage of the present law, on the ground that it would frequently be convenient to have a supreme court commissioner in Johnstown, as well as a judge of the degree of counsel.

As a general rule, the committee believe it has been deemed impolitic to authorize the appointment of a supreme court commissioner where a judge resided who was a counsellor of the supreme court, because it seems to have been desirable to command the services of gentlemen of legal attainments.

The compensation to county judges is very limited, and as the appointment of a supreme court commissioner would necessarily reduce the amount which the judge would otherwise receive, the committee deem it impolitic to recommend the passage of the law prayed for.

They cannot believe that with a judge of the degree of counsel in the village of Johnstown, and a supreme court commissioner in another part of the county, that there can be any serious inconvenience in the transaction of business.

The committee, therefore, report against the petitioners, and recommend that they have leave to withdraw their petition.



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